

Field Training Manual



Morgan Hill Police Department
16200 Vineyard Blvd
Morgan Hill, CA 95037
Updated: September 2018

Morgan Hill Police Department

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Morgan Hill, CA 95037

Field Training Manual

Patrol Field Training Program

David Swing, Chief

Updated: 09/2018

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Foreword

The purpose of the Field Training Manual is to assist the trainee in having necessary training material presented systematically. The manual is comprehensive, but by the very nature of police work, cannot cover all material. The program is designed to assist officers in making the transition from what they learned in the academy to performing general law enforcement duties competently in the field.

The regular officer will receive extensive training that will enable him/her to function as a solo beat unit. The reserve officer will receive a modified version of training that will enable him/her to assist the regular beat officer on various details but not to the extent of being able to function as a solo beat unit.

It is the primary responsibility of the Field Training Officer (FTO) to facilitate this transition process by supervising, training and evaluating trainees in the application of their previously acquired knowledge and skills. Each FTO has completed a P.O.S.T. approved Field Training Officer course and is an experienced patrol officer who was selected to this position after a selection process. Each officer will be assigned to a minimum of three FTOs before satisfactorily completing the program.

The manual is to be used only as a guide. The information contained within this manual was current at the time of printing. Updated Policy Manuals, directives, and policies will take precedence over material presented in this manual. A great deal of the material that you will need to know is contained within this manual, but it will be necessary to also refer to Policy Manuals, Patrol Procedures, County Protocols, Penal Code, Vehicle Code, and other reference materials while in the training program.

The FTO will assign the trainee various sections of this manual to learn during each phase of training. The trainee will be expected to know and retain this information; continual testing and/or evaluations of this material will be done by the FTO while the trainee is in the program. In addition to the instruction the trainee will be receiving under the direction of the FTO, it is recommended that the officer do home studying. The broad background of knowledge needed to become an effective officer cannot be gained entirely on the job.

This manual is designed to ensure that trainees receive specific training in designated areas. At the end of each phase, there will be an accompanying portion that requires both the FTO and trainee to initial and date acknowledging that the material was demonstrated and understood by the FTO and trainee, respectively. The trainee should not sign off any section(s) that he/she does not understand. The trainee will be held accountable for all sections signed off. The trainee should notify the FTO and request additional instruction in the area(s) of concern.

Often, acceptable performance only comes after repeated attempts at a particular task and successful performance may occur weeks after the first attempt.

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The following symbols will be used to designate the written sources of the subject matter outlined in the sign off portions of this manual as well as areas to refer to for additional information:

- D Demonstrated
- PM Policy Manuals
- HS Health and Safety Code
- PC Penal Code
- TM Training Manual
- TA Traffic Accident Manual
- VC Vehicle Code
- WI Welfare and Institutions Code
- BP Business and Professions Code

The Morgan Hill Police Department is always striving to make the Field Training Program better. The trainee will be given the opportunity to confidentially evaluate each of his/her assigned FTOs and the program as a whole, at the completion of their training.

The Field Training Program staff is always available to assist the trainee with problems or concerns. The trainee should not hesitate to contact any of us for advice or guidance.

A lot of hard work is ahead of you, but the rewards that await you will be worth the effort. I hope that the Field Training Program is a positive and productive experience for you.

Sergeant Mario Ramirez
Field Training Program Coordinator

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Message from Chief Swing

On behalf of the Morgan Hill Police Department, I welcome you to our Field Training Program. Everyone in this department is committed to assuring that top quality training is provided to you. Your experience in our Field Training Program will be one of the most important and exciting career opportunities you will encounter. We trust that the training will provide you with the skills so that you will emerge as a competent and confident police officer.

Your training staff is dedicated to providing support, guidance, and direction to you to ensure your success. Your experience in the Field Training Program is very important to us, and we welcome your input on the effectiveness of your training.

You are a key element to the future of this department, as your actions today will set the tone, the direction and the focus for tomorrow. I want and expect you to be a valuable resource for our service to the community and the Police Department.

Congratulations and best wishes throughout your training program and welcome again to the Morgan Hill Police Department.

Chief David Swing

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Mission statement

Your Morgan Hill Police Department is committed to deliver intelligence-based police services by partnering with the community to reduce crime, apprehend offenders, and improve quality of life with integrity, professionalism, and respect.

Our Mission is Guided by our Core Values:

- Safety
- Integrity
- Respect
- Professionalism
- Pride
- Team Work
- Innovation

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Peace Officer Bill of Rights

If you are a Peace Officer under Sections 830.1(a) and (b) of the Penal Code, you have the following rights:

- You have the right to engage in political activity off duty and out of uniform.
- You have a right to refuse to engage in political activity if you so choose.
- You have a right not to be subjected to punitive action, or be denied promotion, or be threatened in any such treatment because of the lawful exercise of your rights granted by AB301 or the exercise of any rights under any existing administrative grievance procedure.
- You have a right to have any interrogation conducted at a reasonable hour, with a representative of your own choosing present, preferably at a time when you are on duty, or during your normal waking hours unless the seriousness of the investigation requires otherwise.
- You have a right to be compensated for time spent in interrogation that is conducted in your off duty hours at the normal rate for your department. You shall not be released from employment for any work missed.
- You have a right to be informed of the name and rank and command of the officer in charge of an interrogation, the interrogation officers, and all persons to be present during the interrogation, in advance of the interrogation.
- You have the right to have all questions directed to you under interrogation through no more than two interrogators at one time.
- You have a right to have the interrogating session limited to a reasonable period, taking into consideration the gravity and complexity of the issue being investigated.
- You have a right, during interrogations, to be allowed to attend to your own personal physical necessities.
- You have a right not to be subjected to offensive language or threatened with punitive action, except that an officer refusing to respond to questions or submit to interrogation shall be informed that failure to answer questions directly related to the investigation, or interrogation, may result in punitive action. No promise of reward shall be made as an inducement to answering any question.
- You have a right not to be subjected to visits by the press or news media without your express consent nor shall your home address or photograph be given to the press or news media by the department without your express consent.

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- You have a right of access to any tape recordings of any interrogations or to have your own tape recorder present.
- You have a right to a transcribed copy of any notes made by a stenographer, or to any reports or complaints made by investigators or other persons, except those which are deemed by the investigating agency to be confidential. No notes or reports, which are deemed to be confidential, may be entered in your personnel file.
- You have a right to be informed of your constitutional rights if it is deemed that you may be charged with a criminal offense before the interrogation starts.
- You have a right to have a representative present if formal charges have been made or if punitive action may be taken as a result of the interrogation.
- You have a right not to be loaned or temporarily reassigned, to a location or duty assignment if a sworn member of your department would not normally be sent to that location or would not normally be given that duty assignment under similar circumstances.
- You have a right that no punitive action or denial of promotion on grounds other than merit shall be undertaken by any public agency without providing you with an opportunity for administrative appeal.
- You have a right not to have any comment, adverse to your interest, entered in your personnel file, or any other file used for any personal purposes by your employer, without you having first read and signed the instrument containing the adverse comment indicating that you are aware of such comment. If you refuse to sign the document, it will be so noted and placed in our file.
- You have a right to refuse to inform your employer of information regarding items of property, income, assets, source of income, debts, or personal or domestic expenditures and those of your family except such information as required by State law or which is necessary for the employer to ascertain the desirability of assignment to a special unit in which there is a strong possibility that there is a conflict of interest or where there is the possibility of bribes or other improper inducements being offered.
- You have a right to have your locker free of search except when you are present or by other legal means.
- You have a right to have thirty (30) days with which to file a written response to any adverse comment entered in your personnel file and have it attached to, and accompany the adverse comment.

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- You have a right to refuse to submit to a polygraph examination. NO disciplinary action, records, or testimony may be given to indicate the fact that you refused the polygraph.

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ORIENTATION PHASE TRAINING MATERIAL

The following section describes many important issues relating to the Morgan Hill Police Department and the Field Training Program.

Introduction and Description of the Field Training Program

Description of the Field Training Program:

The Field Training Program is intended to provide a standardized training program to facilitate the officer's transition from the academic or custodial setting to the actual performance of general law enforcement duties of the Morgan Hill Police Department. Our goal is to provide an environment conducive to learning, one in which the trainee can feel free to have open dialogue and fruitful interaction with his/her FTO. This program will require a great deal of work for each trainee to complete the program satisfactorily, but the rewards are well worth it.

The Chain of Command for a trainee in the Field Training Program is as follows:

- Field Training Officer, Field Training Program Coordinator, Patrol Captain, Chief of Police. The shift patrol supervisor is available for day to day needs.
- The assigned FTO is a veteran officer and can answer most of the questions posed and is a starting point for direction and guidance.

Field Training Officer Selection and Training:

The Field Training Officer (FTO) is an experienced officer trained in the art of supervising, training and evaluating entry-level and lateral police officers in the application of their previously acquired knowledge and skills.

FTOs will be selected based on the following criteria:

- Desire to be an FTO
- Worked as a sworn police officer for at least three years.
- Demonstrated ability as a positive role model
- Participate in and pass an internal oral interview selection process
- Evaluation by supervisors
- Possess a POST Basic certificate
- Shall be off probation at the time of application

An officer selected as a Field Training Officer shall successfully complete a POST (40-Hour) Field Training Officer Course prior to being assigned as an FTO.

All FTOs must complete a 24-hour Field Training Officer update course every three years while assigned to the position FTO (11 CCR 1004).

All FTOs must meet any training mandate regarding crisis intervention behavioral health training pursuant to Penal Code § 13515.28.

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All FTO's will be evaluated annually by the FTO SAC to ensure they possess the skills and performance necessary to continue in the assignment.

The Field Training Program:

All Trainees will go through a minimum two-week orientation program and are also given the opportunity to spend a day in dispatch, records, and property during that period. The Field Training Program is delivered over a minimum of 16 weeks in four (4) phases of training. The four (4) Phases will be broken down as follows:

Phase One: 4 Weeks assigned to FTO # 1

Phase Two: 2 Weeks assigned to a Traffic FTO and 4 Weeks assigned to FTO # 2

Phase Three: 4 Weeks assigned to FTO #3

Phase Four (Shadow): 2 Weeks assigned to FTO #1

Academy graduates must perform in each of the four phases for a minimum of 4 weeks. Accelerated Lateral Officers must be evaluated by at least two (2) FTOs if they are to be considered for expedited release from the program.

Phase I:

During Phase I, each new trainee will receive comprehensive training that will cover pertinent material that will assist the trainee in completing the training program. The topics will range from Policy Manuals, Law Enforcement Protocols, use of force, firearms use and reporting, pursuit guidelines, Report Writing, Arrest/Control Techniques, Tactics, Domestic Violence, etc.

This phase of training will also cover the firearms, use of force, pursuit, and various other policies that the trainee must know to perform his or her job properly. The FTO will also inspect the trainee for proper grooming, uniform, and equipment during this phase.

Training in this phase will also include car stops, routine forms, radio communication, and other training needs that will form the foundation for the trainee to advance to the other phases of training and eventually become a solo beat officer. During this phase, the trainee will be guided through most aspects of police work by the FTO and will be told how to handle details that the FTO feels the trainee needs assistance with. The trainee must pass the three of the four weekly quizzes during this phase of training.

Phase II:

This phase of training will introduce the trainee to various statutes (Penal Code, Vehicle Code, Health & Safety, Business & Professions, etc.), as well as the discussion on the proper management of many situations that the trainee will be handling as a solo beat officer. The trainee will be exposed to various in-field situations and will start to take on more of the responsibilities of a solo beat officer. The trainee must pass three of the four weekly quizzes during this phase of training.

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Phase III:

This phase of training will require the trainee to assume most responsibilities of a solo beat officer. The trainee will incorporate those areas that have previously been taught and be able to handle many calls and reports with minimal assistance. Additional statutes will also be taught during this phase. The trainee must pass the two weekly quizzes during this phase of training. In addition, the trainee must pass the final quiz to complete this phase of training.

Phase IV:

This phase is a test and evaluation phase only. It generally consists of two weeks of observed patrol activity. The training guide (and all performance objectives) should have been completed prior to the trainee's entry into this phase. An important aspect of this phase is the trainee's return to his or her Primary FTO for evaluation. To ensure the trainee acts as the lead officer during this phase, the primary FTO should observe the actions of the trainee from a "ride-along" position while wearing plain clothes. The FTO will not take any actions of except in instances where his/ her intervention is necessary. This FTO intervention should occur under the following circumstances:

- ***Officer Safety-*** If the actions of the trainee constitute a hazard or potentially dangerous situation to the officers of citizens, the FTO must take whatever action is necessary to reduce the hazard and ensure proper safety practices are followed.
- ***Illegal and Unethical Activity-*** Th FTO must ensure that the trainee's actions are legal and ethical at all times. Neither of these conditions shall be sacrificed for training purposes.
- ***Embarrassment to a Citizen, the Department, or the FTO-*** The FTO must not allow an incident to get to the point where the trainee embarrasses or brings discredit to a citizen, the Department, the FTO, or himself/ herself at any time.

If it is determined the trainee has demonstrated a pattern of difficulty or an inability to perform to the established standards of achievement in any phase, he/ she should either receive an extension for training, be given a remedial training assignment or "contract," or be terminated form the program.

Weekly Quizzes:

The trainee will be required to pass written quizzes throughout the first three phases. These quizzes will test the trainee's knowledge of the material that has been presented during each week of training. The quizzes will consist of true-false, multiple choice, fill-in, and essay type questions. Points may be deducted for lack of neatness as well as spelling and grammatical errors. A score of 40 out of 50 must be achieved to pass each weekly quiz. A score of 80 out of 100 must be achieved in order to pass the final quiz. No reference material other than a dictionary (paper or electronic) will be allowed during the phase exams. If a trainee fails three or more quizzes, he/she will be released from the Field Training Program.

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Daily Performance Appraisal Numbering System:

Trainees will be evaluated on a daily basis, by their assigned FTO, using the POST Numeric Daily Observation Report 2-237 (DOR), and the Standard Evaluation Guidelines (SEGs). The Standardized Evaluation Guidelines (SEGs) define the competency levels for all required performance categories and any agency-specific requirements. Additionally, a Trainee's progress will be reviewed on a weekly basis by the FTO SAC; and the progress will be documented using the Supervisor's Weekly Report (SWR), and at the end of each phase by using the End of phase Report (EPR).

Each completed DOR form will be assigned a number that corresponds to the exact number of the shift that the trainee has completed. The first day of training will be labeled as "1" and each succeeding day of training will be numbered consecutively. Trainees will only be given credit for the shifts they actually work in the field. Trainees that are off because of sickness or vacation will not receive credit for those missed days. Trainees that work Operations, administrative duties or other non-patrol functions will not be given credit for a training day.

It will be the trainee's responsibility to keep track of the number of shifts that have been completed and that the proper number is indicated on each Daily Performance Appraisal form. The trainee is also required to make a copy of each Daily Performance Appraisal form for his or her personal records. The trainee will retain these copies so that they can be readily available for review. This copy is also useful in the event the original is lost or misplaced.

Completion of the Field Training Program:

The Field Training Officer's attestation of each trainee's competence and successful completion of the Field Training Program must be completed at the end of the program, and a statement that releases the trainee from the program, along with the signed concurrence of the department head, or his/her designee.

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Standardized Guidelines for Daily Appraisal Form

The Field Training Officer will be using the Standardized Guidelines for the evaluation of the trainee's performance each day. The Standardized Guidelines rate a trainee's performance on a daily basis against that of a competent solo beat officer. In general, continual unsatisfactory ratings indicate that the trainee is incapable of, or unwilling to, perform some of the necessary performance objectives that are necessary to become a solo beat officer. Ratings of competent and/or exceptional indicate that the trainee met or exceeded those expectations for that day.

It is the responsibility of the FTO to properly evaluate and document a trainee's satisfactory and unsatisfactory performance. The FTO will document that reasonable attempts to correct the deficient area(s) have been made, including all remediation. The comments that the FTO makes on the Daily Performance Appraisal form will have a dramatic effect on whether the trainee passes or fails the program. The Daily Performance Appraisal form will also show the trainee how he/she is performing and progressing in the program.

The FTO will complete the Daily Performance Appraisal form at the end of each shift and then present it to the trainee for review and discussion. A trainee that concurs with the evaluation will circle "I concur" and then sign the form. A trainee that does not agree with an evaluation will circle "I do not concur" and then sign the form. The trainee will also complete an Employee's Report directed to the Field Training Program Coordinator explaining the reason(s) for disagreeing with the appraisal. Upon receiving this Employee's Report, the Field Training Program Coordinator will look into this matter and take appropriate action.

To complete the Field Training Program, a trainee must:

- Meet or exceed minimum requirements in all categories of the Daily Performance Appraisal form.
- Satisfactorily complete all academic requirements of the Daily Performance Appraisal form and the Field Training Program.
- Consistently exercise good judgment.
- Demonstrate competence in all details and assignments.

Trainees can refer to the accompanying explanation and description of the Standardized Guidelines for the Daily Performance Appraisal form for further information on this evaluation process.

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Field Training Program Evaluation Form Page

The Morgan Hill Police Department is always looking for ways to improve the Field Training Program. At the completion of the FTO Program, the Trainee will complete a Field Training Officer Critique for each Field Training Officer, and a Field Training Program Critique (FTP) of the training program.

Your candid evaluations are very important. It is one of the most effective means we have to improve our service to you, the trainee. Some of the more significant improvements to the program came from observations of trainees. The information you provide will be kept confidential unless you document that you authorize the release or use of it.

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Morgan Hill Police Department Programs and Requirements

First Aid, CPR, Range, Driver's License Requirements:

CPR should be renewed yearly and First Aid every three years.

Officers are required to qualify with their duty weapon, the 12-gauge less than lethal shotgun and AR-15 rifle once per year. Officers will attend the range on-duty or will be compensated at the overtime rate if they are required to go during their off-duty time.

Trainees are required to have a valid California driver's license in his/her possession whenever he/she is operating a city-owned vehicle.

Policy Manuals/Bureau of Enforcement Directives:

The Morgan Hill Police Department Policy Manuals are available in the briefing room and watch commander's office. There is a great deal of pertinent information in these orders and officers will be responsible for knowing and understanding the contents of each order. Trainees should begin studying these orders, as there will be verbal and written tests on them throughout the training program. The phase tests will also test trainees' knowledge in these areas.

Field Training Manual:

The Field Training Manual and all associated resources will be issued to all trainees prior to starting in the Field Training Program.

The Field Training Manual will become the trainee's property once they have completed the program. It is encouraged that trainees use this manual for notes and other pertinent information that can later be used as a reference when they become a solo beat unit. At the end of each phase in the Field Training Manual will be a portion where the FTO and the trainee sign off on important information and tasks that should be demonstrated and/or explained to the trainee by the FTO and in which the trainee demonstrates competency. Under no circumstances should a trainee feel obligated to sign off any area of material that was not covered or not understood.

The trainee and the FTO will also be expected to sign off the Phase Completion form at the end of each phase of training. This form will be returned to the Field Training Program Coordinator at the time that particular phase examination is taken.

Education Incentive Pay (EIP):

Education Incentive Pay is available to employees who meet certain education and experience criteria. Your FTO or shift supervisor can provide you with more information regarding this program.

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Merit Raises:

You can refer to the current Memorandum of Understanding or contact a representative of the POA for information regarding merit raises.

Sick Leave:

A trainee that will be unable to report for his/her normal shift should notify MHPD Communications at 408/779-2101 as early as possible. It is also recommended, as a courtesy, to contact the FTO to inform him/her of the sick status. Upon returning to work, the trainee will complete a "time off slip" to be turned into the FTO. A trainee will only be given credit for shifts that he/she actually works.

Meal Break:

All patrol officers are entitled to a forty-five-minute meal break during their shifts but must respond to calls for service if dispatched.

Smoking Policy/"No Smoking Areas":

Trainees will familiarize themselves with the city policy that deals with this topic. Remember: There is to be no smoking within patrol vehicles or within city buildings unless in a designated smoking area.

When and Where to Report for Duty:

The police department is in operation twenty-four hours a day. There are various shifts and assignments that officers assigned to the patrol may be assigned to work.

Once a trainee completes the Field Training Program he/she is administratively assigned by the Patrol Captain for the remainder of their probationary period.

Officers assigned to patrol work a 12 hour day on a rotating 3 and four-day schedule. Officers are assigned one 10 hour day each week to make an even 80 hours each pay period. Those officers assigned patrol:

Days	0700-1900
Overlap	1600-0400
Midnights	1900-0700

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Personal Appearance, Hygiene, and Maintaining of Proper Equipment:

Officers are expected to arrive at work for their assigned shift at the designated time and be properly groomed, dressed and have the necessary equipment to work patrol. Personnel should be neat, clean and well groomed when on duty. The uniform should be clean and neatly pressed with the shoes and leather polished.

Officers must adhere to the appropriate Policy Manuals that outlines each of these areas. Continual failure to abide by these Policy Manuals may result in departmental disciplinary action.

Officers will not be allowed to go on beat if they are not wearing body armor and/or are not in the authorized Morgan Hill Police Department uniform, including badge and nametag.

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All trainees assigned to the Field Training Program are required to have the following listed equipment (these items can be obtained from Personnel and Training):

- Duty belt, holster, handcuff case, ammo holders and case, key ring, keepers and baton ring
- Pepper spray
- Duty weapon
- Body armor
- Handcuffs
- Flashlight (recommended that you purchase rechargeable flashlight)
- Rain gear
- Baton
- Helmet
- Gas mask

FTOs, unless otherwise directed, will provide the new trainees with the following:

- Full-sized edition of the California Vehicle Code
- Citation books (moving and parking)

Officers will also have to obtain a building key card and a locker from the Administrative Secretary.

The new officer may also want to consider purchasing a full-sized edition of the California Penal Code. Officers will find this to be an extremely valuable tool while in the Field Training Program and also after you are on your own.

Some of the other items that will be needed on the first in-field day are:

- Catalog case or another type of case to hold extra forms, reference books, etc.
- Metal clipboard for writing reports in the field
- Citation book to hold blank cite books
- Extra pair of handcuffs and case (optional)
- Buck knife or other multi-tool (optional)

The trainee is expected to obtain the necessary report forms during the in-house orientation, prior to his/her first day in the field. The trainee will also be provided with the basic items for a latent fingerprint kit during the orientation.

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Tour of Morgan Hill Police Department

Your Phase I FTO will take you on a tour of the Morgan Hill Police Department building. The tour will include, but not be limited to, Sergeants' Office, Squad room, Report Writing Room, Administration, Records Section, Communications, Detective Division, and Evidence Room.

On-Duty Employee Injury – Reporting Procedure

Procedure:

An officer, who is injured, no matter how slight, will abide by the following procedures:

- Immediately notify his/her patrol supervisor of the nature and the facts surrounding the circumstances of the injury.
- The supervisor will advise the officer on a course of action (proceed to the hospital, etc.).
- The injured officer will complete the required city forms that fully describes the circumstances and nature of the injury.

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PHASE I MATERIAL

The following section contains material related to the first phase of the Field Training Program.

Ethical Conduct:

The public expects and requires peace officers to exhibit a level of conduct above that of the “ordinary” citizen. By adhering to this higher standard, officers exhibit the behaviors they are charged to enforce.

Values:

Values are the fundamental beliefs on which decisions and conduct are based. They may be societal, organizational, professional, or personal.

Societal values are beliefs that are reflected by the norms of the community.

Organizational values are the collective beliefs that characterize an organization.

Professional values are beliefs that are fundamental to and characterize a specific vocational group or discipline.

Personal values are the individual beliefs that a person relies on in making the personal decisions in his or her daily life. Officers must recognize that they may sometimes be called upon to take actions that are in conflict with their personal values. If this occurs, officers must be able to keep their own views in perspective and act professionally and neutrally when carrying out their duties. The following instances illustrate potential personal conflict.

- An officer who does not believe in abortions may be called upon to control a crowd of demonstrators at an abortion clinic.
- Officers may be called upon to maintain order at a rally championing political issues to which they are personally opposed.

Ethics:

Ethics are the accepted rules of conduct governing an individual or a group. They are based on values held. Ethics play a dominant role in an officer’s daily conduct and can affect his/her personal choices. One basic ethical concept that is common to almost every major philosophy of life is the Golden Rule. It states, “*Do unto others as you would have others do unto you.*”

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The Golden Rule establishes an essential aspect of ethics. The key idea is that a good person is concerned with, and responsible for, the well-being of others. As ethical people, officers should:

- Put themselves in the position of others,
- Recognize how their actions affect others,
- Seek to help when possible,
- Refrain from causing avoidable harm, and
- Intervene to prevent unethical behavior by peers.

Ethical Standards:

Ethical standards are the criteria set for professional conduct. They are the behavior models generally adhered to and accepted, and the principles upon which ethical decisions are made.

Morals:

The term “morals” refers to personal convictions about right and wrong.

Principles:

Principles are ethical standards that people rely on for guidance in decision-making. The principles an officer relies on to make decisions, on and off duty, may be influenced by:

- Personal convictions,
- Peers (either negatively or positively),
- Department and community expectations, and
- Published and printed material related to professional conduct

Importance of Ethical Conduct:

If law enforcement is to be considered truly professional, ethical conduct must be a way of life for those in the profession. To maintain a partnership with the community, law enforcement must maintain high standards of ethical conduct. Officers must set good examples of the behavior they are charged to enforce. The law enforcement community is only as strong as its weakest link. Unethical police conduct affects the image and morale of the entire profession and offends officers throughout the country.

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Distinguishing Right From Wrong:

How does an officer know whether a particular act is right or wrong? All matters of law are documented in print. Department rules and regulations are also set forth in writing. When officers are confronted by a situation in which guidelines are not provided by the law or department policy, the officers should be guided by their own moral convictions.

Law Enforcement Code of Ethics

Historical Precedence:

Professions have long recognized the importance of having rules of ethical conduct. The *Hippocratic Oath* is perhaps the best known professional code of ethics. It is named for its creator Hippocrates, the Father of Medicine. Although it was written no later than 400 B.C., this oath is still taken by practicing physicians today.

The American Bar Association is another well-known professional organization that subscribes to rules of professional conduct. The rules of conduct for both the American Medical Association and the American Bar Association include means for disciplining unethical members. This is typical of many professional groups.

Law Enforcement Code of Ethics:

The adoption of a uniform code of ethics was one of the most progressive steps achieved by law enforcement. The *Law Enforcement Code of Ethics* was adopted in 1956 by the National Conference of Police Associations, representing some 180,000 police officers, and the International Association of Chiefs of Police. Many individual departments and local police associations have also adopted the code.

The code is a product of a national effort by a number of distinguished law enforcement executives, as well as many rank and file police officers throughout the nation. By adopting the code, the law enforcement profession sets its own standards of conduct. The Peace Officers Standards and Training Commission (POST) requires that the *Law Enforcement Code of Ethics* be administered to every peace officer in the State of California (*POST Administrative Manual, Section 1013*).

Adherence:

Any code is just a set of words until it is translated into action. Officers give the *Law Enforcement Code of Ethics* life and meaning by following it in their everyday conduct.

Along with members of the law enforcement community at all levels, peace officers uphold the values, ethics, and principles of the profession. Officers are sworn to uphold the principles contained in the code. They also adhere to it as a matter of personal integrity. By adhering to the code, officers demonstrate to the community and to their peers that they are honorable and trustworthy.

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Key Elements:

POST requires that all peace officers officially subscribe to the *Law Enforcement Code of Ethics* as part of their initiation into the California law enforcement community. Officers should become thoroughly familiar with the code and understand what they promise to uphold.

By subscribing to the *Law Enforcement Code of Ethics*, officers promise to:

- Serve mankind, protecting lives and property and preventing deception, oppression, and violence,
- Respect the constitutional rights of all men and women,
- Exemplify courageous calm, self-restraint, honesty, and mindfulness of the welfare of others,
- Obey all laws and department regulations,
- Maintain confidentiality of job-related information,
- Enforce the law courteously and appropriately without compromise, favoritism, bias, malice, unnecessary force, or acceptance of gratuities,
- Regard the badge as a symbol of public trust in police service ethics, and
- Dedicate themselves to achieving law enforcement objectives and ideals.

Code of Conduct:

California has supplemented the *Law Enforcement Code of Ethics* with a *Code of Professional Conduct and Responsibilities for Peace Officers (Code of Conduct)*. The *Code of Conduct* is designed to enhance the *Law Enforcement Code of Ethics* by defining specific standards of professional conduct.

The *Code of Conduct*, developed in 1979, is the collective product of the California Peace Officers Association and peace officer representatives throughout the state.

The *Code of Conduct* is comprised of canons and ethical standards.

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Canons:

Canons are general statements of the standards of professional conduct expected of peace officers. These standards apply to the peace officer's relations with the public, the criminal justice system, and the law enforcement profession. The canons are the general concepts from which ethical standards and disciplinary rules are derived.

The **ethical standards** in the *Code of Conduct* are statements of the specific objectives for which peace officers should strive. The ethical standards constitute principles on which officers can rely for guidance in specific situations.

Each canon is supported by two or more ethical standards that refer to specific peace officer behavior.

Canons:

The *Code of Conduct* has nine canons, which set forth the responsibilities of peace officers. Descriptions of the nine canons that officers promise to uphold are presented in the following table.

Canon	Promise
Canon One	Uphold the Constitution of the United States, state statutes, and local laws.
Canon Two	Perform duties ethically.
Canon Three	Regard discharge of duties as a public trust.
Canon Four	Exemplify high standards of integrity, trust, and morality in public and private life.
Canon Five	Uphold the freedom of others and recognize that it shall not be infringed upon without just and legal cause.
Canon Seven	Cooperate with lawful officials and organizations.
Canon Eight	Refuse to accept, give, or solicit any gratuity.
Canon Nine	Maintain the confidentiality of information.

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Disciplinary Rules:

Each law enforcement agency has **disciplinary rules** that specify unacceptable levels of peace officer conduct.

Any officer who violates a Morgan Hill Police Department rule that applies to *Code of Conduct* canons or standards is guilty of unprofessional conduct and may be subject to disciplinary action. Disciplinary rules apply regardless of an officer's rank and/or nature of assignment.

Disciplinary Actions:

Any violation of disciplinary rules requires appropriate adjudication and disciplinary action. **Adjudication** refers to an appropriate hearing and judgment. Disciplinary actions may include:

- Department/agency actions ranging from a verbal reprimand to termination,
- Criminal prosecution, and
- Other administrative action sanctioned by law.

Ethical Obligations Of A Peace Officer

Traits of Exemplary Officers:

California peace officers can be proud of the reputation law enforcement has in the state. This reputation is based on years of honesty and integrity exhibited by officers throughout the state. Each day, peace officers continue to build this reputation with the high standards of behavior they demonstrate in their professional and personal lives.

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Traits:

It is each officer's responsibility to maintain the good reputation of law enforcement by his or her actions both on and off duty. It is crucial for a peace officer to demonstrate the following traits.

An officer should exhibit...	This trait can be demonstrated by...
Flexibility	<ul style="list-style-type: none">• Adaptability
Honesty	<ul style="list-style-type: none">• Truthfulness,• Accuracy,• Sincerity, and• Straightforwardness.
Integrity	<ul style="list-style-type: none">• Acting in ways consistent with core beliefs, and• Adhering to law enforcement principles with courage and character, regardless of personal, political, social,• Or economic pressures.
Trustworthiness	<ul style="list-style-type: none">• Fulfilling commitments
Fairness	<ul style="list-style-type: none">• Impartiality,• Open-mindedness and equitable treatment of others.
Tolerance of Diversity	<ul style="list-style-type: none">• Respect and acceptance of other races, gender, etc.
Empathy and Concern for Others	<ul style="list-style-type: none">• Maximizing benefits and minimizing harm, and• Being caring, considerate, kind, compassionate, and• Generous when compatible with official duties.

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Traits (Continued):

An officer should exhibit...	This trait can be demonstrated by...
Respect for Others	<ul style="list-style-type: none">• Treating others with courtesy, and• Honoring others' rights to:<ul style="list-style-type: none">○ autonomy,○ privacy,○ dignity,○ the information needed to make informed, and decisions.
Responsible Citizenship	<ul style="list-style-type: none">• Observing the spirit of the law and affording due process, and• Exercising civic duties.
Pursuit of Excellence	<ul style="list-style-type: none">• Carrying out duties to the best of their ability, and• Seeking ways to improve
Personal Accountability	<ul style="list-style-type: none">• Accepting and taking responsibility for the consequences of the officer's own actions or inactions.
Anger Management	<ul style="list-style-type: none">• Exerting self-control.• Maintaining composure,• Not allowing personal animosity to influence, and• Professional behavior.
Loyalty	<ul style="list-style-type: none">• Devotion to:<ul style="list-style-type: none">○ the Constitution○ the government, and○ democratic principles.

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Traits (Continued):

An officer should exhibit...	This trait can be demonstrated by...
Adherence to the principles of public service ethics, including:	
○ Public Interest	<ul style="list-style-type: none">• Treating the officer's authority and powers as a public trust, and• Never compromising integrity for private interest.
○ Objective Decision Making	<ul style="list-style-type: none">• Making judgments on merits, and• Making sure decisions are free from improper influences.
○ Public Accountability	<ul style="list-style-type: none">• Conducting business openly, efficiently, equitably, and honorably.
○ Democratic Leadership	<ul style="list-style-type: none">• Honoring and respecting the principles and spirit of representative democracy.
○ Respectability	<ul style="list-style-type: none">• Safeguarding public confidence in law enforcement integrity, and• Setting a good citizenship example.

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Benefits of Professional and Ethical Behavior

Professional conduct and ethical behavior benefit not only officers and their department, but also their community and society as a whole.

The benefits of ethical behavior are apparent to the officer, department, and community.

Person Benefited	How Benefited
Officer	<ul style="list-style-type: none">• Personal and professional satisfaction in doing the right thing• Maintaining a sense of self-worth and pride• Gaining respect and confidence of coworkers• Establishing a higher personal and professional reputation in the community
Department	<ul style="list-style-type: none">• Officers' professional and ethical conduct helps their department:<ul style="list-style-type: none">○ Provide a positive perception of law enforcement, and○ Gain the respect, trust, and support of the community by promoting professionalism in law enforcement.
Community	<ul style="list-style-type: none">• Receiving equitable law enforcement.• A sense of security and trust and a desire to support and work with local law enforcement departments.

When peace officers behave professionally and ethically, they also *avoid* a negative self, department, and community perception.

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Unethical/Unprofessional Behavior

Unprofessional conduct or breaches of ethical behavior can occur in any profession. The negative effects of such behavior are particularly detrimental in the profession of law enforcement.

Importance of Conduct:

The effectiveness of law enforcement depends on the public's trust. As a result, peace officers are held to higher standards of behavior. Any indiscretion severely damages the credibility of officers and their agencies and compromises public trust and support.

Types of Unethical/Unprofessional Conduct:

Unethical/unprofessional conduct can involve any of the following.

- Violation of law,
- Violation of a person's civil rights,
- Violation of agency policies and procedures, or
- Breach of ethical behavior or professional responsibility as set forth in the code(s) of the profession.

Examples of Unethical/Unprofessional Conduct:

The *Law Enforcement Code of Ethics* and the *Code of Professional Conduct and Responsibilities for Peace Officers* set forth the governing standards of the profession. Types of unethical and unprofessional conduct may include but are not limited to, the following.

- Verbal abuse, discourtesy, or inappropriate language,
- Discrimination, racism, or favoritism,
- Unlawful use of force,
- Violation of a person's civil rights, including:
 - False arrest,
 - Unlawful detention, and
 - Unlawful search and seizure,
- Alcohol and other substance abuse,
- Misusing or compromising confidential information or privileged communications,

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- Accepting gifts of any kind from anyone who could benefit by influencing professional decisions or conduct,
- Theft or misappropriation of evidence or other property,
- Obstruction or miscarriage of justice, which may include:
 - Falsification or destruction of official documents,
 - Perjury,
 - planting false evidence,
 - invoking a *code of silence* to cover up a coworker's wrongdoing, and
 - Non-enforcement of specific laws based on personal bias or prejudice,
- Accepting gratuities.

Unethical and unprofessional conduct can include an officer's off-duty behavior. Inappropriate off-duty behavior may include, but is not limited to, the following:

- Illegal gambling,
- Excessive indebtedness,
- Inappropriate domestic behavior,
- Inappropriate sexual behavior, and
- Misuse of the badge of office.

CONSEQUENCES OF UNETHICAL/UNPROFESSIONAL BEHAVIOR

Any unprofessional conduct by a peace officer can result in a loss of respect for the law enforcement profession and for specific law enforcement agencies. Unprofessional conduct can damage the image of law enforcement in the community and damage the community's cooperation and support.

Miscarriage of Justice:

Peace officers are sworn to uphold the law and protect citizens and property. If a peace officer chooses to engage in illegal activity or not to enforce specific laws based on their own personal choice or bias, this can result in a loss of public trust and in public confusion about the meaning of the law. The examples officers set in the community determine the attitude and cooperation they receive in return.

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Soliciting or Accepting Gratuities:

If an officer selects or receives gratuities, it promotes a negative public image of the entire law enforcement profession. It also creates a real or perceived obligation for the officer to do something for the gift giver (i.e., the concept of *quid pro quo*, or *this for that*). Rationalizing this unacceptable conduct can lead to accepting larger gifts, committing serious misconduct, or even committing a crime.

Inappropriate Off-Duty Behavior:

The *Law Enforcement Code of Ethics* calls for peace officers to keep their "private lives unsullied as an example to all..." Inappropriate off-duty behavior can bring embarrassment to individual officers, their agencies, and the law enforcement profession. Officers should remember that they cannot expect better behavior from others than they demonstrate themselves.

Consequences for Officer:

Unprofessional conduct directly affects the officer in addition to affecting the image and effectiveness of law enforcement in the community. Consequences to the officer range from mild to severe and may include the following:

- Reprimand,
- Disciplinary action,
- Personal liability,
- Public embarrassment,
- Family humiliation,
- Civil and/or criminal liability (personal and departmental),
- Responsibility for punitive damages, or
- Termination.

On a personal level, an officer often suffers humiliation and low self-esteem as a result of unprofessional conduct.

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Leadership

INTRODUCTION

Good leaders are made, not born. If you have the desire and willpower, you can become an effective leader. Good leaders develop through a never-ending process of self-study, education, training, and experience. This guide will help you through that process.

Leadership is a complex process by which a person influences others to accomplish a mission, task, or objective and directs the organization in a way that makes it more cohesive and coherent. A person carries out this process by applying his/her leadership attributes (belief, values, ethics, character, knowledge, and skills).

Principles of Leadership:

To help you *be*, *know*, and *do*¹ follow these eleven principles of leadership (later sections will expand on gaining an insight into these principles and providing tools to perform them):

Know yourself and seek self-improvement. In order to know yourself, you have to understand your *be*, *know*, and *do*, attributes. Seeking self-improvement means continually strengthening your attributes. This can be accomplished through reading, self-study, classes, etc.

Be technically proficient. As a leader, you must know your job and have a solid familiarity with your employees' jobs.

Seek responsibility and take responsibility for your actions. Search for ways to guide your organization to new heights. And when things go wrong, they will sooner or later, do not blame others. Analyze the situation, take corrective action, and move on to the next challenge.

Make sound and timely decisions. Use good problem solving, decision-making, and planning tools.

Set the example. Be a good role model for your employees. They must not only hear what they are expected to do but also see.

Know your people and look out for their well-being. Know human nature and the importance of sincerely caring for your subordinates and peers.

Ensure that tasks are understood, supervised, and accomplished. Communication is the key to this responsibility.

Train your people as a team. Although many so-called leaders call their organization, department, section, etc. a team; they are not really teams...they are just a group of

¹ U.S. Army Handbook (1973), Military Leadership

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people doing their jobs.

Use the full capabilities of your organization. By developing a team spirit, you will be able to employ your organization, department, section, etc. to its fullest capabilities.

Factors of Leadership:

The four major factors of leadership are the:

Follower - Different people require different styles of leadership. For example, a new hire requires more supervision than an experienced employee. A person with a poor attitude requires a different approach than one with a high degree of motivation. The fundamental starting point is having a good understanding of human nature: needs, emotions, and motivation.

Leader - You must have an honest understanding of who you are, what you know, and what you can do. Also, note that it is the followers, not the leader who determines if a leader is successful. If a follower does not trust or lacks confidence in her leader, then he/she will be uninspired. To be successful, you have to convince your followers, not yourself or your superiors, that you are worthy of being followed.

Communication - You lead through two-way communication. Much of it is nonverbal. For instance, when you "set the example," that communicates to your peers that you would not ask them to perform anything that you would not be willing to do. What and how you communicate either builds or harms the relationship between you and your employees.

Situation - All situations are different. What you do in one leadership situation will not always work in another situation. You must use your judgment to decide the best course of action and the leadership style needed for each situation.

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Attributes

If you are a leader that can be trusted, then the people around you will learn to respect you. To be a good leader, there are things that you must *be*, *know*, and *do*. These fall under the **Leadership Framework**:

BE a professional. Examples: Be loyal to the organization, perform selfless service, take personal responsibility.

BE a professional who possesses good character traits. Examples: Honesty, competence, candor, commitment, integrity, courage, straightforward, imagination.

KNOW the four factors of leadership - follower, leader, communication, situation.

KNOW yourself. Examples: strengths and weakness of your character, knowledge, and skills.

KNOW human nature. Examples: Human needs and emotions, and how people respond to stress.

KNOW your job. Examples: be proficient and be able to train others in their tasks.

KNOW your organization. Examples: where to go for help, its climate and culture, who the unofficial leaders are.

DO provide direction. Examples: goal setting, problem-solving, decision making, planning

DO implement. Examples: communicating, coordinating, supervising, evaluating.

DO motivate. Examples: develop moral and esprit in the organization, train, coach, and counsel.

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The Process of Great Leadership:

The road to great leadership² (common to successful leaders):

Challenge the process - First, find a process that you believe needs to be improved the most.

Inspire a shared vision - Next, share your vision in words that can be understood by your followers.

Enable others to act - Give them the tools and methods to solve the problem.

Model the way - When the process gets tough, get your hands dirty. A boss tells others what to do...a leader shows it can be done.

Encourage the heart - Share the glory with your followers' heart, keep the pains in your heart.

In any given circumstance in patrol, officers must be able to show leadership in controlling various events. Officers must lead other officers in crime investigations, tactical situations, searches, and training. Officers will need to direct others through leadership to successfully and safely conclude unplanned, fluid and sometimes dangerous situations.

The attributes an officer must have to be a good leader will also benefit him or her in controlling events that will be encountered in the field environment: to control family disputes, physical fights, large crowd disturbances, parties and community meetings. Leadership is integral to command presence, which each peace officer must have to be effective in this profession.

Notes:

Source for some of the previous material, Big Dog's Leadership Page, (website)

Copyright 1997 by Donald Clark Created May 11, 1997.

² James M. Kouzes & Barry Z. Posner (1987), The Leadership Challenge. San Francisco: Jossey-Bass.

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Force Options

Trainees must know, in detail, the Policy Manual that relates to the force options policy for the Morgan Hill Police Department. Refer to Morgan Hill Police Department Policy Manual #300 Force Options, for specifics.

Use of Force:

Reasonable Force:

Penal Code Section 835a defines **reasonable force** to effect an arrest as only that force reasonable for restraint of the suspect and to get the suspect to submit to custody.

In 1989, the United States Supreme Court applied an objective standard to a non-deadly force situation and further established how reasonable force must be judged objectively (*Graham V. Connor*). The Court's analysis began by considering the suspect's Fourth Amendment right to remain free from any unreasonable seizure against the government's interest in maintaining order through effective law enforcement.

The Court noted that determining the objective reasonableness for the use of force must be *fact specific* and established the following four components for determining reasonableness.

The reasonableness of a particular use of force must be...

1. Judged from the *perspective of a reasonable officer*.
2. Examined through the eyes of an officer on the scene *at the time the force was applied*.
3. Based on the facts and circumstances confronting the officer *without regard to the officer's underlying intent or motivation*.
4. Based on the knowledge that the officer *acted properly under the established law at the time*.

Peace officers will constantly be faced with decisions as to when to use force and to what degree it should be applied. The totality of the circumstances must be evaluated from *the perspective of the officer at the scene*, rather than from an outsider's benefit of hindsight. Reasonable force must be based on the facts and circumstances known to the peace officer at the time the force was used.

The primary objective of the application of force is to ensure control of a suspect. The Court determined that the officer's subjective feelings toward a suspect should not be considered when establishing whether or not to use force or the amount of force to use for a specific situation.

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The Court noted that the following facts should also be considered, but not limited to, when gauging reasonableness.

1. The severity of the crime
2. The nature and extent of the threat posed by the suspect
3. The degree to which the suspect resists arrest or detention
4. Any attempts by the suspect to evade arrest by flight

When the level of force that is applied in a given situation is reasonable, a peace officer is not considered the aggressor. Officers have a legal right to:

1. Use reasonable force to overcome resistance.
2. Stand their ground against any aggressor; they “need not retreat or desist.”
3. Use reasonable force for protection; “the right of self-defense is not lost.”

Force Options:

Peace officers must recognize that they have a range of force options available to them. However, in all cases, the use of force must be reasonable compared to the threat, level of resistance, and other circumstances known to the officer at the time the force was used.

Force options are choices available to a peace officer concerning the methods available as identified in each agency’s or department’s policy documentation.

The objective for the use of force by peace officers in any situation is to ultimately gain or maintain *control of an individual and therefore the situation*.

Peace officers are required to:

1. Use force only when authorized to do so (e.g., to overcome resistance to a lawful process).
2. Use the type of force which is reasonable under the circumstances.
3. Use only the amount of force reasonable to overcome resistance and to gain or maintain control of a suspect.
4. Use only the amount and type of force which is permitted by an individual agency or department policy.

The amount of force applied should not exceed the amount which is reasonable to overcome the suspect’s resistance and gain or maintain control of the suspect. Every situation is unique though.

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Use of Lethal Force:

Peace officers must have a clear understanding of their authority, responsibility, and liability regarding the use of lethal force under the circumstances authorized by law.

The use of lethal force is the most serious decision a peace officer may ever be called upon to make. Such a decision should be guided by a reverence for human life and used only when other means of control are impractical or have been exhausted.

Lethal Force:

Lethal force means a force likely to cause death or serious bodily injury.

The Court established the following components and prerequisites to an officer using lethal force in the line of duty.

In order for peace officers to employ lethal force, they must...

- 1 Life-threatening escape - “Where the officer has *probable cause* to believe that the suspect poses a threat of serious physical harm, either to the officer or others...”
- 2 Life-threatening felony - “...if the suspect threatens the officer with a weapon or there is *probable cause* to believe that he has committed a crime involving the infliction of serious bodily harm...”
- 3 Give warning where feasible - “...the court imposes a constitutional requirement that *some warning* be given prior to the use of lethal force *where feasible*...”
“Halt...Police! Stop, or I’ll shoot!”
- 4 If necessary to prevent escape - “...in order for lethal force to be constitutionally permissible, there must be *probable cause* to believe that the use of lethal force is *reasonably necessary*...”

In order to understand the aspects of the use of lethal force, peace officers need to become familiar with the following terms.

Serious bodily harm or injury means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and serious disfigurement (*Penal Code Section 243(f)(5)*).

Reasonable necessity means that delay in apprehension would create a substantial and unreasonable risk to officers or others possibly resulting in serious physical injury or death.

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Imminent danger means a significant and immediate threat which peace officers reasonably believe will result in death or serious bodily injury to themselves or to other persons. Imminent danger is not limited to “immediate” or “instantaneous.” A person may pose an imminent danger even if they are not at the *very moment* pointing a weapon at another person.

According to the law, bare fear alone does not justify the use of lethal force. There must be a *sufficiency of fear* for the use of lethal force to be justified. (*Penal Code Section 198*)

There are three elements needed to establish sufficiency of fear:

1. The circumstances must be sufficient to excite the fears of a *reasonable person* in like circumstances.
2. The person must not act *under the influence of fear alone*. There has to be some circumstance or overt act apart from the officer’s fear.
3. The decision to use lethal force must be made *to save one’s self or another* from great bodily injury or death.

Homicide by a Peace Officer:

Homicide is the killing of a human being by another human being, lawfully or unlawfully. Under certain circumstances that a peace officer must face, homicide by a peace officer may be justifiable and legal.

Justifiable homicide by a public officer occurs when public officers, such as peace officers or people working for them, kill a person in the performance of their duty or in self-defense in arresting or retaking a felon who is armed or poses a significant threat of death or serious injury to the officer or others (*Penal Code Section 196*).

Peace officers must recognize their legal and ethical responsibilities to intervene if the amount of force being used is inappropriate.

The community expects that its peace officers will use only reasonable amounts of force. Likewise, it expects that someone, including other officers, will intervene if reasonable levels of force are exceeded. For the community’s protection and the officer’s protection and peace of mind, the officer must have a basic knowledge of the laws pertaining to intervention.

Intervention is the act of preventing or stopping the inappropriate or unlawful behavior of another. The appropriate intervention allows peace officers to maintain or restore professional control over a given situation or improve the professional quality of future interactions.

The United States Constitution provides protection for individuals against unlawful actions of peace officers. The United States Code contains criminal sanctions against peace officers who violate the civil rights of the public (*USC Title 18, Sections 241 and 242*).

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NOTE: The officer who fails to intervene, for whatever reason, is also held accountable under the United States Code.

Although *Penal Code Section 834a* states that the person being arrested must submit to an arrest, if unlawful or unreasonable force is used to effect the arrest, the person being arrested may lawfully resist to overcome that force.

When peace officers intervene appropriately, their professionalism is enhanced, as is their personal and organizational credibility. Intervention may also save officers from:

1. Physical injury resulting from unnecessary escalation,
2. Disciplinary action up to and including termination,
3. Criminal complaints filed against them, and
4. Financial loss resulting from civil suits.

Intervention involves the application of a variety of techniques for restoring or maintaining professional control over a given situation. In some situations, it may be desirable or necessary to intervene immediately. In others, it may be desirable to utilize an intervention strategy after the fact.

During a high-stress situation such as making an arrest, peace officers may experience emotional or angry reactions to the suspect. As a result, they may start applying excessive force without realizing what they are doing. At this point, it is imperative that the fellow officer step in immediately and diffuse the situation.

There are three common immediate intervention techniques:

1. Verbal
2. Physical/touch
3. Restraint

In situations that have already taken place, it may be necessary to implement a delayed intervention technique. This can be valuable in improving the professional quality of future contacts.

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There are three common delayed intervention techniques:

1. Discussion
2. Admonishment
3. Training

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Department Firearms Policy

Trainees must know, in detail, the Policy Manual that relates to the firearms use policy for the Morgan Hill Police Department.

Refer to Morgan Hill Police Department Policy Manuals #312, Department Firearms and Ammunition #300, Force Options

Firearms ready position, discharge, storage, etc.

The use of a firearm means the firing of the weapon for the purpose of shooting at a suspect. Warning shots will not be fired. Approved use of the weapon is contingent upon legal and moral consideration, the professional judgment of the officer, and departmental policy.

The officer must notify the patrol supervisor as soon as possible whenever he/she discharges a weapon other than at the range. The circumstances of the discharge will be documented in an incident report.

“READY” POSITION OF FIREARM:

- Pistol: Firearm removed from the holster, in the low ready position, round chambered and pointing at the suspect with trigger finger outside of the trigger guard.
- Shotgun: Removed from the stored position and pointing at the suspect with a round chambered, the safety on and the trigger finger outside of the trigger guard.
- AR-15 rifle: Removed from the stored position and pointing at the suspect with a round chambered, the safety on and the trigger finger outside of the trigger guard.

THE 12 GAUGE/LESS-LETHAL SHOTGUN:

- Authorized Shotgun: Only departmental authorized shotguns will be carried by officers.
- Obtaining Shotgun: Shotguns are stored in the vehicle. Shotguns not in vehicles will be taken from the armory and accessed by the Patrol Watch Commander.
- Inspection Prior To Going to Beat: Officers must check the shotgun to ensure that it appears in good operating condition. Any shotgun that appears to be in need of repair will not be allowed into service until the weapon is checked and approved for use by the range master.
- Handling, Loading, and Securing: The shotgun will never be loaded inside a building and will be handled in the proper manner with the action open when entering or leaving the office. It will be loaded in the approved manner and

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secured in the patrol vehicle's shotgun rack.

- The shotgun will remain locked in the patrol car rack until such time as the officer deems it necessary to have immediate access to the weapon. The officer must become familiar with the patrol car release mechanisms for the shotgun/AR-15 rifle.
- End of Shift Procedure: The shotgun will be left secured in the vehicle. If the shotgun was deployed during the shift, the officer will ensure it is safe and no rounds are chambered in the weapon. Under no circumstances will a chambered shotgun be returned to the shotgun vehicle rack.

THE AR-15 RIFLE:

- Authorized AR-15 Rifle: The Morgan Hill Police Department will issue patrol officers an AR-15 rifle after completion of the department's AR-15 rifle course.
- Obtaining Weapon: The AR-15 rifle will be stored/secured in the department armory and will be stored/ secured while on-duty.
- Inspection Prior To Going to Beat: You must check the AR-15 rifle to ensure that it appears in good operating condition. Any AR-15 rifle that appears to be in need of repair will not be allowed to be placed into service. A range master should be contacted immediately.
- Handling Loading and Securing: The AR-15 rifle will never be loaded inside a building and will be handled in the proper manner with the magazine out and action open when entering or leaving the office. It will be loaded in the approved manner and secured in the patrol vehicle's rack.
- The AR-15 rifle will remain locked in the patrol car rack until such time as the officer deems it necessary to have immediate access to the weapon. The officer must become familiar with the patrol car release mechanisms for the AR-15 rifle/shotgun.
- End of Shift Procedure: The AR-15 rifle will be removed from the vehicle and placed in the department armory. If the rifle was deployed during the shift, it will be checked to ensure that no rounds are chambered in the weapon at the completion of the shift. Under no circumstances will a loaded AR-15 rifle be returned to its storage area or a chambered weapon be returned to the AR-15 vehicle rack.

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Officer Safety

Officer safety refers to the practical application of tactically sound procedures to perform law enforcement activities in a safe and effective manner.

Officer safety involves:

1. The attitude and physical conditioning of the officer,
2. Initial and ongoing training,
3. Appropriate care and use of equipment, and
4. Utilization of available resources.

Officers assigned to patrol should be aware of general safety guidelines. By practicing each while performing all patrol activities, officers can help guard against making fatal errors and putting their own lives, as well as the lives of others, in jeopardy.

Due to its repetitive nature, a patrol assignment carries with it the inherent danger of becoming routine. As a result, patrol officers can easily become complacent and careless which can lead to potentially fatal errors.

While on patrol, officers can encounter some of the most dangerous and threatening conditions. More officers are killed or assaulted in the line of duty when on patrol than any other law enforcement assignment. Patrol officers are more likely to encounter the following types of potentially dangerous incidents:

1. Domestic violence and/or disturbance calls
2. Investigating suspicious individuals
3. Arrest situations
4. Ambushes
5. Crimes in progress
6. Vehicle pullover
7. Off-duty incidents
8. Pedestrian contacts
9. Building search

Statistical analysis of incidents involving officers killed or assaulted in the line of duty has found that most of the deadly incidents ***could have been prevented***. Officers should keep in mind and avoid committing any of the following fatal errors while on patrol.

Contact and Cover (Primary and Backup):

The first officer on the scene must take on the leadership role for the basic assessment of the situation, making contact with the involved parties, and determining if law enforcement action is required. To accomplish these tasks safely, that officer may need to rely on backup support from one or more additional officers.

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The **contact officer** is the officer who initiates an action and who therefore becomes responsible for conducting the business of the specific detail being handled.

The **cover officer** is the officer who takes on the responsibility for surveillance and control of a suspect in order to free the contact officer to perform a more thorough investigation.

“Cover” is also a term that is often associated with combat tactics. Under such conditions, **cover** refers to anything that may *stop or deflect* an opponent’s weapon (e.g., brick walls, buildings, a portion of the vehicle with the engine block, etc.).

In contrast, to cover, **concealment** refers to anything that prevents an opponent from *observing* the officer (e.g., bushes, small trees, tall grass, dark shadows, large crowds, lines of moving vehicles, etc.). Concealment alone does not stop or deflect bullets.

The contact officer is responsible for...

1. Initiating action (whether radio dispatched or self-initiated details)
2. Conducting the essential business required such as, but not limited to:
 - alerting the cover officer that a weapon or contraband is located on the suspect,
 - conducting thorough systematic searches,
 - maintaining control of the suspect,
 - recovering evidence,
 - recording necessary suspect or incident information,
 - handling radio communication, and
 - writing traffic or misdemeanor citations.

The cover officer is responsible for...

1. Protecting the contact officer from possible interference (e.g., onlookers or associates of the suspect).
2. Maintaining constant observation of the overall situation and being aware of possible dangers and potential interferences.
3. Providing a command presence to discourage hostile acts, assaults, or escape by the suspect.
4. Securing any weapons or contraband; this allows the contact officer to continue searches.
5. Preventing the destruction of evidence.
6. Intervening with appropriate force to protect the contact officer if a suspect reacts violently.

In some instances, once the initial contact has been made, officers may decide to exchange contact and cover officer duties. Such a switch may take place when:

1. It is tactically advantageous to do so (e.g., when the suspect’s position changes), or
2. One officer has specialized training or expertise in a given area (e.g., as a Drug Recognition Expert (DRE), better rapport with a suspect, more knowledge

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regarding the area, bilingual, or a specific personal skill). In such exchanges, the officer assuming the role of the cover officer must be in position and fully prepared to respond to any sudden action by the suspect *before the original cover officer relinquishes that duty* to take on the role as contact officer.

It is essential that contact officers who request cover and officers who respond *clearly communicate* with one another. Responding officers should be briefed regarding the details of the contact as thoroughly as possible.

Body Armor:

Utilize proper safety equipment.

Body armor is the single most effective piece of safety equipment that a peace officer can utilize.

Although body armor greatly enhances officer's survivability in a lethal confrontation, it should never replace proper tactics when handling high-risk incidents.

Officer Survival:

Officers must be ready and capable, physically and emotionally, to immediately take control of a potentially dangerous situation without hesitation caused by anger, fear, or indecision.

Normal functioning of the human body depends on cooperation between the brain and the rest of the body. By learning to discipline the mind to remain calm, flexible, but alert at all times, peace officers can reduce reaction time.

The use of force in dangerous situations may bring on emotional responses as well as physiological responses that officers must be prepared to recognize and deal with.

Two major emotional factors that officers need to focus on during their training:

1. Fear, an emotional response to a perceived threat, and
2. Anger, a feeling of displeasure from perceived opposition.

It is important to be able to understand the sources of fear and anger since both can affect officers' reactions during a dangerous situation.

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Officers must be not only physically prepared but also mentally prepared to use force or have force used against them. Inappropriate responses are often the direct result of uncertainty. Uncertainty is likely to result in indecision and physical behavior that could adversely affect an officer's safety as well as the safety of others. These can include:

1. Hesitation,
2. Verbal abuse,
3. Bluffing, or
4. Unreasonable/unnecessary force.

Fear is a normal emotional response to a perceived threat (real or unreal). Fear is normal and does not become a problem until it interferes with the ability to perform effectively.

When a person experiences fear, the body reacts, often by increasing the adrenaline, heart rate, and breathing. In addition, some common body responses to fear include:

1. Blood clotting enzymes flow into the system to minimize damage from wounds,
2. Vision and hearing become more acute and focused (e.g., tunnel vision and tunnel hearing),
3. Increased muscle tension and perspiration,
4. Raised pain thresholds,
5. Time distortion, and
6. Fine motor skills are impaired.

Reasonable fear may result when an officer experiences increased tension in response to a potential threat.

Unreasonable fear includes overreactions to true potential threats as well as reactions to unreal threats generated based on prejudice or poor application of past experience.

Unreasonable fear can be responsible for inappropriate responses such as a failure to respond, or responding inappropriately (using excessive force).

It is normal for peace officers to experience fear whenever they encounter a potentially dangerous situation.

Discussing fears with others is the first step in managing fear. In addition, going through the mental rehearsal before an incident takes place (the "what ifs") as well as after-action assessments (the "what could I have done better") will better prepare the officer in dealing with fear.

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Other methods for managing fear include focusing on:

1. What must be done and not solely on the danger itself,
2. Evaluating the situation and determining what must be done to achieve the goal, and
3. The survival phase in order to control the feeling of vulnerability.

Command Presence:

Officer safety and command presence are a constant, never-ending mindset. Maintaining this mindset requires constant alertness. By acting properly at the scene of an incident, the officer will greatly increase their odds of not having an unfortunate set of circumstance develop.

The officer should continually review the following:

- Not turning his/her back on suspects.
- Do not allow individuals to come into their “safe” area.
- Always leave the gun hand free.
- Handcuff suspects as quickly as possible.
- Control persons’ movements during placement of their hands.
- Make proper use of lighting (flashlight, spotlight, headlights, street lights, etc.).
- Keep Communications advised of their activities.
- Wear body armor.
- Keep equipment clean and in good working condition.
- Debrief and critique incidents and events.

When giving direction or commands which require others to act, the officers must be clear, direct and use a strong tone of voice that tells others he or she is serious about the situation. The trainee should be respectful and never use profanity.

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Mental Conditioning:

There are five stages of mental conditioning, and they are color-coded:

- White: relaxed (such as when an officer is at home, enjoying a hobby or with friends).
- Yellow: general awareness (while on patrol prior to receiving a call or becoming involved in an incident).
- Orange: 75 - 25 / “check six” (when officers become involved with other persons their focus is 75% on the main subject and 25% on others and the surroundings – Check six items (see below) regarding each individual encounter).
 - Hands
 - Weapons/Bulges
 - Cover/Concealment
 - Associates
 - Escape Routes (officers’ and theirs)
 - Footing/Balance (officers’)
- Red: predetermined action (based on the officer’s training, experience, and mental rehearsal. This is how the officer will respond to handle the incident or circumstances).
- Black: overwhelmed (if the officer is not mentally prepared, he/she will under-react, over-react, or freeze).

Action Plan:

Through training and experience officers will become familiar with how to handle a wide variety of calls and circumstances, but they cannot be prepared for everything they may encounter. Therefore, officers must develop an attitude of being flexible and willing to step back and reevaluate each situation before proceeding.

It is common for officers to feel they shouldn’t back down. However, it is safer to wait to have the advantage on the officer’s side as opposed to pushing a bad situation which may get someone hurt.

Constant mental rehearsal (thinking: “what would I do if”) is one way to help prepare for difficult situations. It is very important to have alternative plans if the primary plan does not work. In other words, don’t rely on just one way to handle given situations. Be prepared to go to a backup plan or even withdraw/retreat.

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Firearm Dependability:

Officers should not depend on their handgun to quickly disable a person who is a threat. Officers must understand that a person who is shot with a handgun does not always fall down like in the movies.

If an officer decides to fire his/her handgun in accordance with department policy, he/she must be prepared for the subject to retaliate for a period of several seconds up to a couple of minutes after they are hit. This means the officer:

- Should be constantly aware of cover or concealment when in condition yellow, orange, and red.
- May have to continue firing.
- May have to withdraw or retreat from the immediate threat.

Morgan Hill Police Department
Field Training Manual
Departmental Pursuit Guidelines

Trainees must know, in detail, the Policy Manual that relates to the pursuit policy for the Morgan Hill Police Department.

Refer to Policy Manual #314 for specifics.

All officers who operate law enforcement emergency vehicles must recognize that even though the purpose of pursuit driving is the apprehension of a suspect who is using a vehicle to flee, the vehicle pursuit is *never* more important than the safety of officers and the public.

Few situations in law enforcement operations require a higher degree of experience and sound judgment than high-speed vehicular pursuits. Officers must effectively perform in an atmosphere where long-range consequences may hinge upon the soundness of split-second decisions.

A vehicle pursuit is an event involving one or more law enforcement officers attempting to detain a suspect who is operating a motor vehicle. The suspect is attempting to avoid arrest by using high-speed driving or other evasive tactics such as:

1. Driving off a roadway,
2. Turning suddenly, or
3. Driving in a legal manner but *willfully failing to yield* to the officer's signal to stop.

A vehicle pursuit must be a managed event requiring:

1. Knowledge of and compliance with department policy,
2. Trained personnel operating as a disciplined unit,
3. Supervisory control (if available),
3. Effective coordination and good communication,
4. Sound decision-making by all personnel, and

Pursuit driving can be more dangerous for the law enforcement officer and the general public than emergency response driving.

Initiating a Pursuit:

An agency may specifically prohibit officers from initiating pursuits under certain conditions or from authorizing pursuits for certain categories of offenses or for violations of specific statutes. All officers must know our agency policies and limitations.

Officers initiating traffic stops must be aware of the presence and proximity of other motorists on the roadway prior to utilizing emergency lights and siren. When practical, officers should close the distance between themselves and the violator's vehicles to minimize the likelihood of other vehicles swerving into their path. They also should

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select an area which provides optimal officer and bystander safety (e.g., a wide roadway, high visibility to other motorists, minimal pedestrian activity, etc.).

Officers involved in a vehicle pursuit with a non-violent felon, misdemeanor, or vehicle code violator should terminate the pursuit when it becomes apparent the violator intends to evade by driving without due care for public safety. Driving without due care for public safety includes, but is not limited to, driving at excessive speeds for conditions, running red lights/stop signs, and intentionally colliding with other vehicles or objects. As an exception to this policy, officers may continue to pursue suspects under the following circumstances:

1. When the driver is suspected of driving under the influence
2. When the driver is known to possess a firearm
3. When the officer has credible information which leads him/her to believe the pursued driver intends to imminently cause a specific person or persons great bodily injury or death.

Officers must also make an honest assessment of their own *training and experience*, as well as the *capabilities and limitations of the vehicle* they are driving before they initiate a pursuit.

If a driver fails to yield, officers must consider what is known or suspected regarding the suspect's offense. Officers should apply a *balance test*, weighing the *seriousness of the crime*, with the level of *a threat to the public safety* from a vehicle pursuit.

Driving tactics are those actions which maximize the safe conduct of a pursuit.

Pursuit driving tactics should include the following safe driving factors:

1. Proper following distance
2. Speed awareness
3. Anticipation of hazards
4. Proper road positioning
5. Maintaining mental control and self-discipline

If the circumstances of the pursuit indicate that apprehension of the suspect by pursuing officers appears unlikely, the primary unit or an appropriate supervisor may direct the air unit (i.e., STAR 1 or Air 2) to continue to track or provide surveillance of the suspect vehicle. The primary purpose of tactics involving air support is to reduce the potential danger to officers and the public on the highway.

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For example, air support may be requested when the suspect's:

1. Vehicle continuously increases the distance from the ground units.
2. Vehicle is frequently out of sight of the ground units.
3. Actions indicate the ground units should back off.

The role of air support during vehicular pursuits is to assist and coordinate the involved field units. When called into the pursuit, they are responsible for monitoring and broadcasting pertinent pursuit information.

When the air unit is tracking or conducting surveillance of the suspect vehicle, concerned ground units should restrict their radio traffic to only information necessary to provide assistance.

Points to Ponder

Pursuits are not as exciting as one may think. They are truly dangerous, not only to the officer but also to the public. The officer must weigh his/her decision to continue a pursuit against the possibility of someone getting hurt because of the pursuit.

The officer must keep a good distance from the pursued vehicle. He/she must stay far enough away that he/she can react to a change of direction, sudden braking or stops, gunfire or accidents. But not so far that he/she will lose sight of the suspect vehicle.

Keep calm, breathe deep and scan the roadway. Don't get tunnel vision. Staying calm will help officers to react properly during and after the pursuit.

Be aware that as the patrol vehicle speeds along, drivers ahead of the pursuit may not see or hear the lights or sirens. Don't expect other drivers to get out of the way. Some drivers pull to the left or suddenly stop where they are, or just keep going.

Drive safely. If an officer falls out of a pursuit because of an accident, he/she cannot help any other officers in the termination of the pursuit. It is better to drive smart and live through a pursuit than to drive recklessly and die trying.

Motorcycles are almost never worth pursuing. They can out-accelerate, out-maneuver patrol vehicles.

No fleeing suspect is worth an officer's or anyone else's life. There is always tomorrow to catch him.

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Field Training Manual
Emergency Operations of a Vehicle

Trainees must know, in detail, the Policy Manual that relates to the emergency operations of a vehicle.

Refer to Policy Manual 316, 704 and 706 for details.

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Field Training Manual
Patrol Vehicle Inspections, Refueling, etc.

Patrol Vehicle Inspection Prior to Going to Beat:

The trainee will know, understand and demonstrate the correct procedure for checking the patrol vehicle for contraband, weapons, and safety defects prior to completing Phase I training. The trainee must also be able to properly check out the vehicle for “old” or unreported damage and report such damage via a City of Morgan Hill Damage Report and Vehicle Service Request. The trainee will learn to check the following areas:

- The push bumpers to ensure they are intact.
- The tires to ensure they are in safe operating condition.
- The exterior of the vehicle for unusual damage or safety defects.
- The routine lighting equipment, such as headlights, tail lights, etc.
- The emergency lighting equipment such as the red lights, spotlight, etc.
- The interior of the vehicle for obvious defects or suspicious objects.
- The areas under the seats, the areas partially obstructed from view as those between the seats and doors, the glove compartment, the area above the sun visors, etc. for contraband.
- The radio equipment to ensure it is operating properly.
- The emergency lighting and siren control to ensure they are operating properly.
- The brakes, steering, transmission, engine, suspension, etc.
- The trunk to ensure all safety equipment is intact and no contraband is located.

Replacing Emergency Equipment:

When emergency equipment is found to be missing or defective during the initial patrol vehicle inspection, it will be replaced before going to beat.

Reporting Faulty Patrol Vehicle:

When an officer finds a vehicle is unsafe to drive or is experiencing mechanical problems he/she should park the car and check out another one. That officer will then fill out a Vehicle Service Request form with the problems explained.

If a vehicle breaks down in the field or is unsafe to be driven any further, the trainee should request permission from the field supervisor to have the vehicle towed to the police department or place of service and complete a Vehicle Service Request form.

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Repairing of Patrol Vehicle in the Field:

When possible, all vehicle repairs should be done at the designated service facility. If an officer has a flat tire, he/she should notify communications and they will have a tow truck respond to service the vehicle.

Refueling of Patrol Vehicle:

- Patrol vehicles will be filled up at the end of the shift unless there is $\frac{3}{4}$ of a tank or more of gasoline left. If it is not possible to refuel at the end of the shift a note will be left indicating a need for fuel. Patrol vehicles should be refueled at the Morgan Hill Corporation Yard on Edes Ct.

The patrol sergeant can authorize you to use the city credit account for gasoline purchases at authorized stations.

Patrol Vehicle Equipment, Location, and Function:

Trainees will know the location, proper operation, and function of the following:

- Spotlight
- Police radio
- Controls for the public address system, siren, and emergency lights
- Placing/removal of shotgun/AR-15 rifle into/out of the rack
- Fire extinguisher
- First aid kit
- Emergency blankets
- Flares
- Beat pack

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Patrol Vehicle Involved in Traffic Accident:

Officers involved in an on-duty traffic accident will adhere to the following:

- Accidents in unincorporated/city police jurisdiction: The California Highway Patrol investigates all traffic collisions involving a Morgan Hill Police Department vehicle. Collisions are also investigated by the police department concurrently with the CHP.
- General accident reporting procedures: Employees involved in an on-duty traffic accident will:
 - Attempt to render first aid to any injured parties
 - Request additional emergency personnel
 - Preserve the accident scene by use of flares, traffic control
 - Immediately notify the patrol supervisor
 - Request the California Highway Patrol respond for a report.
 - Locate witnesses.

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Field Training Manual
Patrol Vehicle Operations

Officers need to understand the components of defensive driving, factors that impact the safe driving of a vehicle, the importance of good training, and the types of collisions involving law enforcement vehicles.

Safe driving habits can reduce risk and stress during vehicle operations. Good driving habits provide a foundation for sensible decision-making when a driver is faced with a suddenly changing traffic situation.

Defensive driving is more than just looking out for other drivers. It involves operating a vehicle in such a manner as to be able to avoid involvement in a collision, no matter what the conditions.

A defensive driver is one who:

1. Drives in a manner to avoid collisions,
2. Avoids mistakes made by other drivers, and
3. Drives carefully under all conditions.

The three primary components of defensive driving include the:

1. *Driver*,
2. *Vehicle*, and
3. *Driving conditions*.

Officers must continually strive to improve their basic driving knowledge and skills. Experience alone does not make a better driver. Over time, officers may develop poor driving habits.

Safety belts (lap belt and shoulder belt) have been proven to be the single most effective way of protecting the occupants of a vehicle from serious injury or death in a vehicle collision.

Under normal conditions, law enforcement vehicle drivers should develop a pre-driving routine that includes fastening their safety belts.

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For proper use, officers should:

1. Put the belts on prior to moving the vehicle.
2. Get into the habit of fastening the belts without looking by:
 - using two hands to fasten the belts, and
 - not looking down.
3. Wear the lap belt across the hips, pelvic area below the gun belt, and not across the stomach.
4. Adjust the belts snugly across the body.
5. Ensure that the belts are locked securely and not twisted.

For officer safety, safety belts could be disengaged and retracted *just prior to stopping the vehicle* at a location which may involve law enforcement activity for tactical purposes.

Airbags are designed to supplement and *not to replace safety belts*. They act as pillows in front-end collisions and protect occupants by absorbing a significantly greater amount of the crash force than the occupant could withstand.

Air bags inflate in a fraction of a second and begin to deflate as soon as they are fully deployed.

Officers should be aware of the following information regarding the airbags in their vehicles.

1. The powder in which the airbags are packed will fill the vehicle with a fine dust when bags are deployed. This material will dissipate quickly and is not harmful; although it should be washed off as soon as reasonably possible.
2. Airbags are designed to deploy at 12-14 MPH on a fixed object.
3. A 35 degree or less frontal impact is necessary to cause airbag deployment (for front seat airbags).
4. The driver's hands may be forced off the steering wheel upon bag deployment, causing a momentary loss of steering control and injury which is why it is important to practice shuffle steering and proper hand position.

Vehicle Maintenance:

Ensuring proper mechanical maintenance of the vehicles to which they are assigned is a primary responsibility of all law enforcement drivers. The officer who drives the unit is in the best position to provide information that can assist the mechanics in properly maintaining the vehicle. Failing to report or ignoring unusual engine noises, vibrations, or other possible problems leads to increased vehicle maintenance costs and *jeopardizes the safety of officers using the car*.

Support personnel have a responsibility to maintain law enforcement vehicles. Without critical awareness and notifications from drivers, the efforts of maintenance personnel

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will not be enough. If a mechanical malfunction or worn component (i.e., brakes, tires, fan belts) is detected, it must be fixed.

A vehicle should be expected to meet the demand placed on it during the course of each shift. Unfortunately, abuse of patrol vehicles by officers causes undue wear and subsequent breakdown of many vehicles. The following table identifies some of the behaviors and driving actions of officers that can lead to mechanical failure.

Proper inspection of the assigned vehicles is extremely important. It is the *responsibility of each officer* to conduct a vehicle inspection at the beginning and conclusion of each shift. A properly inspected vehicle will ensure a greater degree of confidence and reliability with respect to vehicle condition and performance. Taking the time to properly inspect the vehicle could *ultimately save the officer's life!*

An officer should be able to complete the inspection in a few minutes if the same procedure is followed each time. Also, developing a sequence for conducting the inspection eliminates the need to retrace the inspection path and ensures that all items are inspected.

Principles of Defensive Driving:

Officers must recognize and understand basic defensive driving principles and techniques in order to develop safe driving habits to reduce the number of law enforcement vehicle collisions.

Defensive drivers can use a number of techniques to avoid *potential* hazards under all driving conditions.

A **space cushion** is a clear area and maneuvering room surrounding a vehicle while it is in motion. It includes the area to the front, rear, and sides of the vehicle. To maintain a space cushion is to have an *escape route* to take evasive action if the car in front suddenly stops, slows, or skids. When driving in traffic, it may be difficult for a driver to maintain an adequate space cushion completely surrounding the vehicle (front, rear, and both sides.) If a driver cannot maintain a space cushion in one direction, the driver should be aware of it and leave an escape route in as many other directions as possible.

Following distance is the distance maintained between a vehicle and the vehicle immediately in front of it. The old rule of thumb of one car length for every 10 mph as a safe following distance does not take into account driver perception, decision, and reaction times.

A *safe minimum following distance is at least **three seconds of time between vehicles***. The three-second gap will provide time to react if the car ahead suddenly brakes. When traveling at higher speeds or under adverse conditions, a longer time span will provide a safer space cushion.

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Peripheral vision is the lateral degree of perception present when the eyes focus straight ahead. An average driver with good peripheral vision can see about *180 degrees* laterally when a *vehicle is stationary*. The reduction of peripheral vision is known as **tunnel vision**. Tunnel vision may be caused by increased vehicle speed and/or driver stress.

Responding to an emergency places extreme demands on officers' abilities to perceive and react. They must gather and process sensory information and make decisions quickly. To increase their chances of getting to the emergency safely, they should develop a systematic method of driving and practice until this method becomes second nature.

A driver's reaction to a hazard or danger can be separated into two distinct phases:

- driver perception time and
- driver **decision/reaction** time.

To react to a hazard, drivers *must first perceive it* before they can make a decision and react to it. The average driver's **perception time** is *3/4 of a second (.75 seconds)*.

The average driver will take another *3/4 of a second (.75 seconds)* between the perception of a stimulus (a hazard) and making a decision and initiating a reaction (braking, steering, etc.). **A vehicle will travel 1.1 feet for every MPH of speed.**

Most drivers do not look far enough ahead when operating a law enforcement vehicle. By maintaining a high **visual horizon**, searching ahead and focusing eyes down the road instead of just beyond the vehicle's hood, drivers have a better opportunity to recognize potentially hazardous conditions.

Intersections pose the greatest potential for law enforcement collisions. Law enforcement drivers must establish and maintain the habit of visually clearing intersections of cross traffic before entering them.

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Stopping:

Officers must consider the location, manner, and position in which a law enforcement vehicle is stopped in order to avoid collisions. *The most dangerous place to stop a vehicle is in a traffic lane. Such stops should be avoided whenever possible.* Guidelines for stopping a law enforcement vehicle are noted below.

- Whenever possible, choose a spot *off the roadway*.
- Although the shoulder of the roadway is preferred, be aware that hazards still exist there.
- Try to find a wide spot that will get the vehicle as far off the roadway as possible.
- Select a location that allows maximum visibility of the law enforcement vehicle in both directions.

Backing:

Many law enforcement-related collisions occur while the officer is driving in reverse. Law enforcement drivers should *avoid backing on roadways unless there are no other alternatives*.

When backing a patrol vehicle, officers should:

- Position themselves for backing so that they are able to look over their right shoulder and out the rear window.
- Turn around and look and not rely solely on the vehicle's mirrors
- Check the position of the front of the vehicle frequently.
- Continue looking backward until the vehicle comes to a complete stop.

Changing Lanes:

Two factors contribute to many lane change collisions. They are:

- Failure to signal, and
- Failure to check blind spots.

Blind spot: A **blind spot** is an area which cannot be seen by using a vehicle's mirrors and can vary greatly with vehicle design. The safer way to be sure the area to the rear is clear when changing lanes is to *turn the head and look over the shoulder*.

The law enforcement driver must be proficient in the operation of the vehicle and knowledgeable about the dynamic forces at work. Proper application of steering control, throttle control, speed judgment, and brakes enhances the driving expertise of the individual officer and will reduce the number of traffic collisions involving law enforcement personnel.

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A **vehicle dynamic** is any force or condition that affects the path of a vehicle in motion. While it is difficult to reduce the amount of force acting on a vehicle, the vehicle operator can control and minimize the effects that the forces have on the vehicle.

Means of control:

The dynamic forces that affect a vehicle in motion can be controlled to a certain extent and minimized through proper roadway positioning and smooth operation of the vehicle's controls.

There are three basic means of controlling a vehicle in motion. They are:

- Steering,
- Throttle, and
- Braking.

Application of any or all of these control functions will have an effect on the distribution of a vehicle's weight.

Proper steering technique is critical regardless of the type of law enforcement driving or vehicle speed. Smoothness and coordination of steering will aid in obtaining maximum control of the vehicle at all times.

Two-handed shuffle steering:

There are a number of advantages of using a two-hand **shuffle steering** technique over other methods of steering.

The two-handed shuffle technique:

- Maximizes steering accuracy.
- Allows for safer and more effective recovery from steering input.
- Provides maximum vehicle control by minimizing weight transfer.
- Prevents the radio cord from wrapping around the steering wheel.
- Minimizes airbag deployment injury.

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Smoothness and *accuracy* of steering are essential for maintaining vehicle control. Officers must also consider the following principles when employing any steering maneuver.

- Minimal steering input, as necessary, is best for control of the forces at work on a turning vehicle.
- Any time the steering wheel is turned while the vehicle is in a turning motion, lateral weight transfer exerts pressure in the opposite direction from that in which the vehicle is turning.
- As the steering wheel is turned, centrifugal force pushes on the vehicle's center of gravity. If the centrifugal force is greater than the coefficient of friction, it can cause loss of traction which may result in loss of control.

Centrifugal force is the force on a body in a curved motion that is directed away from the axis of rotation. A force which acts or impels an object away from the center of rotation. While turning, the centrifugal force acting upon the vehicle tends to make it travel in a straight line.

The vehicle's **throttle** (gas pedal) regulates the speed of the vehicle. Officers must develop the ability to estimate a safe vehicular speed for any given situation.

The operation of a vehicle's throttle has a definite and immediate effect on vehicle weight transfer. A number of factors can affect a vehicle's response to acceleration and deceleration.

Officers must recognize that emergency response (Code-3) driving demands a high level of concentration and instant reactions on the part of the driver. This type of driving requires ongoing training and planning to ensure the safety of the officers and the public.

Even though all officers should strive to drive defensively and avoid collisions, the chances they will be involved in a law enforcement collision during their career are high. Because of this, officers must protect themselves and our agency by understanding the statutes and case law that define the proper operation of law enforcement vehicles.

An authorized emergency vehicle includes any vehicle owned and operated by a governmental entity (i.e., county, state) and used by employees in the performance of law enforcement duties or other emergency services (*Vehicle Code Section 165*).

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There are three basic types of law enforcement driving. They are:

- non-emergency,
- emergency response, and
- pursuit driving.

All collisions, no matter what type of law enforcement driving is taking place at the time, create a loss for *all* parties involved. Whether an officer causes the collision or fails to avoid one, the effects can be felt not only by the officers and anyone else involved in the collision, but also by family members, communities, and law enforcement agencies.

Vehicle Code Section 21055 provides that, as drivers of authorized vehicles, officers do not have to abide by certain traffic laws when they are driving under *authorized emergency conditions*.

Peace officers must always use good judgment when operating their vehicles in non-emergency situations, on emergency calls, or while in pursuit (*Vehicle Code Section 22350*). Officers must never drive a law enforcement vehicle at a greater speed than is *reasonable or prudent* with regard to:

- Speeds which endanger the safety of themselves or others,
- Weather conditions,
- Visibility,
- Traffic conditions, or
- Road conditions.

Officers have failed to exercise *due care* if:

- They violate a statute, ordinance, or regulation of their agency,
- The violation proximately caused death or injury to a person or property,
- The death or injury resulted from an occurrence which the statute, ordinance, or regulation was designed to prevent.

Officers are *expressly prohibited* (*Vehicle Code Section 21057*) from operating with lights and siren and violating the rules of the road when serving as an escort for another vehicle *unless* the officers are:

- Serving as an escort for preserving life, or
- Escorting supply movements in cases of emergency or war.

Officers must recognize that their profession requires them not only to serve the public by enforcing the laws but also to ensure the safety of the public while operating a law enforcement vehicle.

With few exceptions, officers will receive emergency calls from dispatch via radio communications. Officers have the right to believe that the information they receive from dispatch is true and to act accordingly.

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If an officer receives information from a source other than dispatch, he or she should have sufficient information to justify a Code-3 response.

Driving Tactics:

Unlike pursuit driving situations, law enforcement vehicle officers have control over a large number of factors affecting safety in emergency response driving.

Officers can:

- Select the route,
- Control the speed, and
- Adjust the speed according to weather conditions and other factors.

Route considerations:

Officers should know the area they are patrolling. When responding to an emergency call, officers should be prepared to use the most desirable, safest route of travel.

Officers should consider the:

- Quickest, most direct route.
- Intersections that have acceptable line-of-sight and right-of-way.
- Interference to the vehicle's warning devices.
- Number of curve(s) in the road.
- Amount of steering and speed adjustment required.
- Availability of escape routes.
- Alternative routes if something unexpected hinders the original route selection.

The most important factor in any emergency response driving situation is the individual driver's calm demeanor and common sense in applying proper driving techniques and tactics.

Intersections:

Many serious law enforcement collisions occur at intersections.

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Other drivers:

Vehicle Code Section 21806 requires traffic to immediately *pull to the right* edge of the roadway and stop in response to an emergency vehicle lights and siren. When responding to an emergency response call, officers should give all traffic a chance to respond to the emergency equipment and yield the right-of-way to the emergency vehicle.

If traffic does not yield, maintain a safe following distance until the motorist can see or hear the emergency equipment and yield the right-of-way.

Because other drivers are required to pull to the right edge of the roadway when yielding to emergency vehicles, passing traffic on the right when your emergency lights and siren are operating is extremely dangerous. Such a maneuver should be done with extreme caution and then *only when no other alternative is available*.

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Use of Police Radio

Trainees must learn the proper radio terminology that is used to communicate while working as a beat unit. The use of the proper radio codes and phonetic alphabet is a necessity. Trainees must gain this knowledge in order to use the car or hand pack radios properly. Failure to properly use or identify a radio code can be a serious officer safety issue.

Below are the radio codes that trainees should know:

Code 1	At Your Convenience
Code 2	Urgent-No Lights and Siren
Code 3	Emergency-Use Red Lights and Siren
Code 4	No Further Assistance Needed
Code 5	Stakeout
Code 6A&D	Armed and Dangerous
Code 6H	Hazard Potential
Code 6F	Felony Want
Code 6M	Misdemeanor Want
Code 7	Mealtime
Code 10	Bomb Threat
Code 20	Officer Needs Assistance-Emergency
Code 22	Restricted Radio Traffic (Code 2/3)
Code 30	Officer needs assistance-Major Emergency
Code 33	Restricted Radio Traffic- Do Not Transmit
Code 1000	Aircraft Crash
Code 3000	Roadblock
AID	Public Safety Assist
904	Fire (Specify Type)
952	Report on Conditions
955	Detail Under Control
956	Detail Unfinished, But Available
148	(PC) Resisting, Obstructing Arrest
187	(PC) Murder
207	(PC) Kidnapping
211	(PC) Robbery
220	(PC) Assault w/Intent to Commit Felony Sex Crimes
240	(PC) Assault
241	(PC) Assault on an Officer
242	(PC) Battery
243	(PC) Battery on a Peace Officer
245	(PC) Assault w/Deadly Weapon (ADW)
246	(PC) Shooting Occupied Vehicle or Inhabitable Dwelling
261	(PC) Rape
273D	(PC) Child Abuse

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273.5	(PC)	Spouse Abuse/Domestic Violence
288	(PC)	Felony sex offense
314	(PC)	Indecent exposure
368	(PC)	Elderly Abuse (Physical & Financial)
415	(PC)	Disturbance
415A		Disturbance, Fight
415F		Disturbance, Family
415G		Disturbance, Gang
415J		Disturbance, Juvenile
415M		Disturbance, Music
415N		Disturbance, Neighbor
415W		Disturbance, Weapons
417	(PC)	Brandishing a Weapon
422	(PC)	Criminal Threats
451	(PC)	Arson
459	(PC)	Burglary
470	(PC)	Forgery
476A	(PC)	Bad Checks
484	(PC)	Theft
487	(PC)	Grand Theft
488	(PC)	Petty Theft
496	(PC)	Receiving/Possession of Stolen Property
530.5	(PC)	Identity Theft
537	(PC)	Defrauding an Innkeeper
594	(PC)	Malicious Mischief
601	(WI)	Uncontrollable Juvenile
602	(PC)	Trespassing
647A	(PC)	Soliciting for Lewd Conduct
647B	(PC)	Soliciting for Prostitution
647F	(PC)	Drunk in Public
653M	(PC)	Obscene or Harassing Phone Calls
4000A	(CVC)	Expired Registration
4532	(PC)	Escape
5150	(WI)	Mentally Disturbed Person
10851	(CVC)	Stolen vehicle
10851R		Recovered Stolen Vehicle
10852	(CVC)	Tampering with a Vehicle
11300	(H&S)	Narcotics
21510	(PC)	Illegal Weapons
25400(a)	(PC)	Carrying Concealed Weapon (CCW)
14601	(CVC)	Driving with Suspended Driver's License
20001	(CVC)	Felony Hit & Run
20002	(CVC)	Misdemeanor Hit & Run
22350	(CVC)	Speeding
22500	(CVC)	Parking Violations
22507	(CVC)	Handicapped Parking Violation
23103	(CVC)	Reckless Driving

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23109 (CVC) Speed Contest
23152 (CVC) Misdemeanor DUI of Alcohol or Drugs
23153 (CVC) Felony DUI of Alcohol or Drugs
25662 (B&P) Minor in Possession of Alcohol in Public

10-1	Receiving poorly
10-2	Receiving OK
10-3	Change Channels (Specify)
10-4	Message Received and Understood
10-5	Relay to:
10-6	Busy, Standby
10-7	Out of service (Location and Nature)
10-7B	Out of service, Personal
10-7C	Out of service, Court
10-7 OD	Off Duty
10-7R	Out of Service, Monitoring Radio
10-7T	Out of service, Training
10-8	In Service
10-9	Repeat
10-10	Out of service at home
10-12	Visitors or Officials Present
10-13	Weather Conditions
10-14	Escort
10-15	Prisoner in Custody (How Many)
10-16	Pick-Up
10-19	Return/En route to Station
10-20	Location
10-21	Phone Your Office or Phone:
10-21B	Phone Home
10-21R	Phone Radio
10-22	Cancel
10-23	Standby
10-27	Request Driver's License Info
10-28	Registration
10-29	Check Wanted Vehicle or Property
10-29A	Check Wanted Subject (computer Only)
10-29C	Check Wanted Subject (Wants & Records, Complete)
10-32	Drowning
10-33	Alarm (Silent, Audible)
10-34	Open Door
10-35	Open Window
10-36	Confidential Information
10-39	Status of
10-40	Is _____available For A Phone Call
10-44	Maternity
10-45	Injured Person
10-46	Sick Person

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10-49	Proceed/Proceeding To
10-50	Take A Report
10-51	Intoxicated Person
10-52	Resuscitator
10-53	Person Down
10-54	Possible Dead Body
10-55	Coroner's Case
10-56	Suicide
10-56A	Attempted Suicide
10-57	Firearms Discharged
10-58	Garbage Complaint
10-59	Malicious Mischief (594 PC)
10-62	Meet the Citizen
10-65	Missing Person
10-65MD	Missing Person, Mentally Disabled
10-66	Suspicious Person
10-66P	Suspicious Package
10-67	Person Calling For Help
10-69	Wire Down
10-70	Prowler
10-71	Person Shot
10-72	Person stabbed
10-73	How Do You Receive?
10-80	Explosion
10-86	Any Traffic?
10-87	Meet The Officer
10-91	Stray Animal
10-91A	Vicious Animal
10-91B	Noisy Animal
10-91C	Injured Animal
10-91D	Dead Animal
10-91E	Animal Bite
10-91F	Sick Animal
10-91H	Stray Horse
10-95	Pedestrian Stop (Location, Send Fill After Specified Time)
10-96	Pedestrian Stop – Send Fill (Location)
10-97	Arrived At Assignment
10-98	Completed Last Assignment
11-24	Abandoned Vehicle
11-25	Traffic Hazard
11-26	Abandoned or Found Bicycle
11-54	Suspicious Vehicle
11-79	Vehicle Accident, Ambulance Dispatched
11-80	Vehicle Accident, Major Injury (Ambulance Needed)
11-81	Vehicle Accident, Minor Injury
11-82	Vehicle Accident, Property Damage
11-83	Vehicle Accident, Unknown Injury – Advise

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11-84	Traffic Control
11-85	Tow Truck Needed
11-95	Vehicle Stop (Location & License – Send Fill After Specified Time)
11-96	Vehicle Stop-Send Fill (Location & License)

The use of the letter “X” after giving a code refers to a female. An example is a 10-51X. This refers to an intoxicated female.

Officers will also provide Communications with beginning and ending mileage when transporting members of the opposite sex for any reason.

Phonetic Alphabet:

Due to interference caused by various types of man-made and natural noise or to clarify the spelling of a name, it is necessary at times to use a name for the letter of the alphabet in order to complete a radio transmission. The phonetic alphabet recommended by the Associated Police Communications Officers has been adopted for standardized purposes.

Phonetic Alphabet

A	Adam	N	Nora
B	Boy	O	Ocean
C	Charles	P	Paul
D	David	Q	Queen
E	Edward	R	Robert
F	Frank	S	Sam
G	George	T	Tom
H	Henry	U	Union
I	Ida	V	Victor
J	John	W	William
K	King	X	X-ray
L	Lincoln	Y	Yellow
M	Mary	Z	Zebra

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Morgan Hill Police Department Patrol Radio Frequencies:

Trainees must know the proper function and location of the following channels on the police radio (patrol vehicle and pack set):

MHPD Primary:

The main Morgan Hill Police Department frequency for use by all MHPD officers during normal circumstances

MHPD Direct

The direct channel is the same frequency as MHPD primary except it excludes dispatch. MHPD direct is used when multiple vehicles have left the area and want to communicate with each other.

MHPD TAC :

Frequency for tactical operations or car-to-car communications

CLEMARS:

Countywide frequency used when leaving the radio range of MHPD Primary

GILROY:

Frequency for Gilroy PD

COUNTY FIRE:

Frequency for County (Central) Fire

CONTROL 1:

Primary frequency for the Sheriff's Office

Sheriff's Office TAC:

Tactical frequency for Sheriff's Office

BAYMAC

Countywide frequency for mutual aid incidents involving multiple agencies

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Definitions: For the purpose of this document, the following two definitions will be used.

Radio: Represents the Communications channel (frequency) you are using.

Unit: Represents the unit's call-sign.

Log-On Procedures with Communications:

The officer will first log on their badge number followed by their call sign. Dispatch will acknowledge the officer then the officer will provide his/her vehicle and handset number.

Example:

Unit: Morgan Hill L137 log on

Radio: L137 go ahead

Unit: Vehicle number 112 and pack-set number 26

Radio: L13710-4

Logging Off:

At the end of the shift, it is necessary to inform Communications that they can take the unit out of the computer. It is a simple process:

Unit: Morgan Hill L137, 10-7 OD

Radio: L137 - 10-7 OD

Car Stops:

11-95:

Beginning of car stop transmissions:

Unit: Radio, Unit, 11-95 and location

This would be considered the preparatory transmission. It allows Communications to type in the necessary information in order to accept the car stop plate.

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Radio: Unit, 11-95 and location

Unit: 11-95 on California plate XAAAXXX, Digit-Alpha-Alpha-Alpha-Digit-Digit-Digit,

Radio: Unit, 11-95, Location

Ending of car stop transmissions.

Additional Information on car stops:

License Plates:

You should give the license plate to Communications twice: Once in clear text and the other with the phonetic alphabet. It is a matter of style, which to give first.

California Plates:

It is optional if you say “California” with California plates. Communications will assume it is a California plate unless you say otherwise. It is not wrong, though, to say “California” as it would be good practice for a trainee to get into the habit of saying from which state the plate is issued.

Out of State Plates:

Say which state the plates are from immediately before providing the alphanumerics.

Paper Plates:

In the format that Communications enters the car stop information (License Plate, Location, and Miscellaneous), the dispatcher is not prepared to receive the paper plate description at the beginning of the transmission (although this seems natural since it is where the license plate information goes). It is necessary to say that it is a paper plate, and then give the paper plate description, e.g., “Courtesy Chevrolet.” At the end of the transmission, it would be appropriate to give a brief description of the vehicle as there is no hard plate.

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Personalized Plates:

Provide the plate twice, as before, but preface the information with “Personalized Plate, Phonetically,” and then give the information.

Location:

“Location” includes, at times, a direction of travel, but minimally a geographic description in relation to a cross street.

Divided Highway/Roadway:

It is necessary to provide a direction of travel on highways and roadways which are divided. This is an officer safety issue and should not be omitted.

It is also important to give a cross street relative to your location (N/of, E/of, etc.) in order to facilitate units’ responses. The responding units then know how to approach the location based on cross streets and/or on-ramps and off-ramps.

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Non-Divided Highway/Roadway:

It is not necessary to provide a direction of travel, not inappropriate for trainees, as it would be good practice.

Examples (Fill-in three examples):

Example 1:

Unit: Morgan Hill, L137, 11-95 Monterey and 5th

Radio: L137, 11-95 Monterey and 5th

Unit: 2-Adam-Boy-David-3-1-4, 2-A-B-D-3-1-4.

Radio: L137, 10-4, Monterey and 5th

Example 2:

Unit:

Radio:

Unit:

Radio:

Example 3:

Unit:

Radio:

Unit:

Radio:

Example 4:

Unit:

Radio:

Unit:

Radio:

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Miscellaneous Information:

Style:

It is possible to give Communications a warning on what type of information will be forthcoming in the car stop, in the initial transmission.

You have not provided too much information in the preparatory transmission but have given the dispatcher a heads up on the miscellaneous portion of the car stop. The rest of the transmissions are the same as previously described.

Miscellaneous Location Information:

Example 1:

Unit: Morgan Hill, L137, 11-95, Cochrane and Sutter

Radio: L137, 11-95, Cochrane and Sutter

Unit: 11-95 on 4-Zebra-Edward-Zebra-6-9-8, 4-Z-E-Z-6-9-8, final stop in the Target parking lot.

Radio: L137, 11-95, Target Parking Lot

If you have miscellaneous information about your location, e.g., stopped in a 7-11 parking lot, a gas station, etc., it goes at the end of the transmission, in the miscellaneous portion. If you give the information too early, it is possible the dispatcher will not get it.

11-96:

Essentially, 11-96 vehicle stops are the same as 11-95 stops. You will want to give additional information relating to the stop, including, but not limited to: the reason for the stop, unusual activity in the vehicle, description of the vehicle, description of the occupants, guidance for the additional unit(s).

Pedestrian Stops:

As stated earlier, all on-view stops start with location and then additional information. In the case of a pedestrian stop, after giving the location, you should give a description of the person(s) being stopped.

10-95:

The most confusing part about a pedestrian stop is remembering that, as an on-view detail, the first part of the transmission is the location. It is easy to get the format confused with the 11-95 situations.

Examples:

Example 1:

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Unit: Morgan Hill, L137, 10-95, Dunne and DeWitt

Radio: L137, 10-95, Dunne and DeWitt

Example 2:

Unit:

Radio:

Unit:

Radio:

Example 3:

Unit:

Radio:

Unit:

Radio:

10-96:

10-96s are similar to 11-96s. You can provide the same type of information to dispatch as in an 11-96 situation.

10-97 On Details:

It is not appropriate to go 10-97 for yourself and another. You should just put yourself 10-97 and let other units do the same.

When you do go 10-97, it is appropriate to give the street name, e.g., Morgan Hill, L137, 10-97 on Trail Dr. This information assists the dispatchers in keeping track of units, especially during busy periods.

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Clearing Details:

Clearance Codes:

Report – Used when a report is taken

Cite – Used when a citation is issued

F.I. = Field Interview Card- Used when a field interview is completed

ADJ = Adjudicated – Used when mediating some type of dispute ie: loud music disturbances.

PR = An informal call not required mediation but more informational

Fill Unit = Used when not the primary unit on a call

F.A. = False Alarm – Used when the officer responds to an alarm call and finds the alarm activated in error

Unfounded – When the officer determines the incident did not occur.

10-98:

When you clear a detail, it is appropriate to give your call sign then the clearance code. e.g., Morgan Hill, D11, 10-98 Report.

Citizen Flag Downs:

When a citizen flags down an officer it can be as simple to ask for directions, as serious to report a crime, or dangerous as to ambush an officer. It is important the officer advise dispatch of the event prior to contacting the citizen if possible. The proper procedure is to advise dispatch of a “citizen flag down” and provide the location. Ex: Morgan Hill, D11, citizen flag down Monterey and 5th.

11-54:

Similar to a citizen flag down you need to advise dispatch of your detail and location, prior to contacting the occupants of the vehicle. At the end of the transmission, you should give the license plate and number of occupants in the vehicle.

Example:

Unit: Morgan Hill, L137, 11-54, Community Park

Radio: L137, 11-54 at Community Park

Unit: Morgan Hill, L137, 3-Lincoln, Henry, Sam, 4-9-8, 3LHS498, occupied by 2

Radio: L137 10-4, occupied by 2.

Although the information requested is different, running individuals for wants or D.L. information is essentially the same process.

Unit: Morgan Hill, L137, clearance for a 10-27/10-29a on one.

Radio: L137go ahead

At this point, the officer must provide the following information, in the following order:

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1. Last name, first name, middle initial.
2. Date of birth
3. Any additional information, such as a California D.L. or I.D. card if needed

Unit: Morgan Hill, L137, 10-27/10-29a Last of ..., First of ..., Middle initial...,
DOB xx/xx/xx. (It is a matter of style if you want to give the DOB once or twice).

Radio: L137, 10-4

Miscellaneous Issues:

Common Names:

If you are running someone with a common name, it is perfectly acceptable to say it is a common name, and not spell it, e.g., “Last of White, common, first of Douglas, common.”

Remember, there are names that sound alike, but are spelled differently. Give the appropriate information with these situations, e.g., John, Jon, Stephen, Steven, etc.

Uncommon Names:

If the name is uncommon, you need to spell it with the phonetic alphabet. Prior to spelling the name with the phonetic alphabet, let Communications know you will be doing so. This prepares them, and they do not start spelling the name based on the alpha you are spelling with. As an example, “Last name, Dako, David-Adam-King-Ocean...” In this case, if you do not let the dispatcher know you will be using the phonetic alphabet, they could be halfway through the *last name* “David” before they realize you are using the phonetic alphabet.

In any event, prior to spelling it, try to pronounce the name. It will help Communications with the spelling and typing.

Miscellaneous Information:

Generally speaking, it is appropriate to give a Code 4 prior to running someone, but not necessary. There can be many circumstances in which you may want to run someone while you are waiting for a fill unit. Just be sure you are clear with Communications that you are not Code 4, but still, want to run your subject(s).

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Information Systems/Telecommunications

Introduction to CLETS:

Officers must be knowledgeable of the laws regarding access and use of law enforcement information systems in order to ensure the privacy of individuals and maintain the integrity and security of the information.

Access to accurate, timely, and complete information is essential to enhance officer safety and allow peace officers to carry out their day-to-day activities and duties.

The **California Law Enforcement Telecommunications System (CLETS)** is a high-speed message computer network of local, state, and federal databases and systems. It provides all law enforcement user agencies with the capability of obtaining information directly from state and federal computerized information files. Records accessed through CLETS are generally thought to be the most widely used records within the criminal justice system.

CLETS is maintained by the California Department of Justice and provides law enforcement agencies with the capability of obtaining information directly from numerous federal and state computerized information files.

All users of the CLETS network must abide by all regulations pertaining to the data obtained from the databases.

Information systems and databases available to authorized law enforcement agencies through the CLETS network are noted in the following table.

Area	System/Database
State	Criminal Justice Information System (CJIS) Department of Motor Vehicles (DMV)
National	National Crime Information Center (NCIC) National Law Enforcement Telecommunications System (NLETS)
Other	Oregon Law Enforcement Data System (LEDS) Canadian Police Information Center (CPIC)

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Circumstances, where an inquiry into the CLETS may be necessary, can include, but are not limited to:

- Locating information on lost, stolen, or recovered property including vehicles.
- Conducting a preliminary or ongoing criminal investigation.
- Identifying prior criminal history records.
- Verifying the validity of a restraining order.
- Verifying the validity of a driver's license, vehicle registration, vessel registration, or occupational license.
- Determining if a person is wanted for outstanding warrants.
- Determining the status of a person on parole or probation.
- Reporting or locating a missing person.

An **All Points Bulletin (APB)** is an administrative message that is distributed or received via CLETS to law enforcement agencies in the state. Any CLETS terminal with administrative message capabilities may send or receive APBs. APBs can also be sent via group addresses to only those with the specified group (e.g., within a geographical area).

APBs may include, but are not limited to:

- Major identifiable property items,
- Crimes against persons (e.g., murder, rape, etc.) when the suspect's mode of operation or vehicle can be described sufficiently,
- Missing persons or "be on the lookout" warnings involving life or death situations, emergencies, or suspected foul play,
- Acts of nature affecting public safety or law enforcement capabilities, or
- Death or funeral notices of personnel on active status killed in the line of duty.

Access to Information:

Compliance with the privacy and security provisions of state law and the Department of Justice regulations based on state law are essential to maintaining the integrity and security of the information available to peace officers.

Mobile Computer Terminals (MCTs), cellular telephones, or radio transmissions should not be used routinely for the transmission of criminal history information. These transmissions by unsecured wireless devices can be intercepted by unauthorized people.

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However, details of criminal history information may be transmitted in such a manner if an officer determines:

- There is *reasonable cause* to believe the safety of the officer and/or the public is at *significant risk*, **and**
- There is an *immediate need* for summary criminal history information, **and**
- Information from other databases (e.g., Wanted Persons, Stolen Vehicles) would *not be adequate*.

All members of the criminal justice system have a responsibility to the citizens of California, the law enforcement community, and each individual's own agency to protect the confidentiality of the information accessible through the CLETS network.

Unauthorized access or misuse of CLETS information can lead to:

- Disciplinary action,
- Termination,
- Criminal action, and/or
- Civil action.

When obtaining information, officers should recognize that CLETS is a "pointer system"; that is, the system provides information but does not guarantee that the information is current or absolutely correct.

Information obtained from CLETS can be used by officers to establish or reinforce the *reasonable suspicion* necessary to *lawfully detain a suspect*. Because the information may be unreliable or unsubstantiated, however, it is *not sufficient alone* for establishing the probable cause necessary for law enforcement actions such as conducting a search, seizing property, or placing an individual under arrest.

Information obtained from the CLETS is sufficient for establishing probable cause once its validity and reliability have been confirmed.

Confirmation means checking with the originating agency to determine if the person or the property in question is the same as person or property originally posted by that agency. Confirmation also establishes if the person or property is still wanted and is probably the same as the person or property being inquired about.

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Department of Justice regulations require that officers:

- Make an effort to verify the information and match (e.g., details such as accuracy of a license plate run, date of birth, consistency of the physical description, etc.),
- Ensure that confirmation occurred with the originating agency to verify that the person or property is still wanted, and
- Obtain confirmation before an arrest or the confiscation of the property in response to the computer match.

The use of unreliable or unsubstantiated information by an officer when establishing probable cause could lead to unlawful searches or seizures as well as incidents of false arrest.

An officer may be held negligent for not accurately confirming information obtained from CLETS before taking such law enforcement actions.

Unauthorized Access or Use of Information:

The security of all lawfully created computer systems must be safeguarded in order to protect the privacy of individuals as well as the well-being of financial institutions, business concerns, governmental agencies, and others who lawfully utilize the information provided.

If law enforcement personnel access or use information obtained through a computer information system outside that person's normal scope of duties, that person is in violation of *Penal Code Section 502* and has committed a felony.

Criminal Justice Information System:

Peace officers must be aware of the requirements for access and entry into the appropriate Department of Justice information systems and databases available on the CLETS network in order to use that information to carry out their duties and to ensure their own safety as well as the safety of others.

The **Criminal Justice Information System (CJIS)** network is a computerized system containing records that are of interest to the criminal justice community. CJIS is maintained by the California Department of Justice in Sacramento. It is available to local, state, and federal criminal justice agencies through the CLETS network.

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There are a number of databases available within CJIS.

	System Name	Acronym/ Abbreviation
Persons	Wanted Persons System	WPS
	Criminal History System	CHS
	Domestic Violence Restraining Order System	DVROS
	Missing/Unidentified Persons System	MUPS
	Supervised Release File	SRF
	Violent Crime Information Network/Sex and Arson Registration	VCIN/SAR
	Mental Health Firearm Prohibition System	MHFPS
Property	Stolen Vehicle System	SVS
	Automated Boat System	ABS
	Automated Property System	APS
	Automated Firearms System	AFS

A computer match alone from CJIS regarding a person or property is not sufficient for probable cause for arrest or confiscation of property. All automated file responses that match the person or property of an inquiry must be confirmed with the record's originating agency prior to an arrest or seizure.

Criminal History System (CHS):

The **Criminal History System (CHS)** contains criminal history information that is available to criminal justice agencies on a “*right-to-know*” and a “*need-to-know*” basis for the performance of their official duties.

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When making an inquiry into the CHS, the requesting party must provide the following information before access to the system will be allowed:

- Requesting person's name,
- Requesting person's unit or division, and
- Official purpose for the information requested.

Wanted Persons System (WPS):

The **Wanted Persons System (WPS)** is a file of records pertaining to wanted fugitives and arrest warrants. WPS records retained in the system longer than 72 hours must be based on an arrest warrant. These warrants are maintained by state, local, and federal criminal justice agencies in California. A match made on a WPS record *does not*, by itself, *provide sufficient grounds to arrest a person*. Confirmation of the information is necessary. Agencies must respond to a confirmation request within 10 minutes on a 24-hour basis.

Inquiries into the WPS may be made by using a subject's name and physical descriptors or by using numeric identifiers. More hits (positive responses) may be obtained by a name search than by searches based on numeric identifiers.

Positive matches may include caution codes which have been entered into indicate special handling of the subject.

Caution codes may include, but are not limited to:

- "Armed and dangerous,"
- "Mentally disturbed,"
- "Suicidal tendencies," or
- "Escape risk."

Domestic Violence Restraining Order System (DVROS):

The **Domestic Violence Restraining Order System (DVROS)** is a system that identifies restraining protective orders entered into CLETS by law enforcement agencies. Law enforcement agencies can access this system for the purpose of obtaining the terms and conditions of a specific restraining order on an individual.

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The DVROS maintains information regarding the restraining orders that must be enforced throughout the state. These include:

- Certain family law domestic violence case orders,
- Criminal restraining orders,
- Civil orders,
- Juvenile orders, and
- Out-of-state domestic violence orders that have been registered with the clerk in California.

Missing/Unidentified Persons System (MUPS):

The **Missing/Unidentified Persons System (MUPS)** is a file of records which catalogs reports of missing or unidentified persons according to a variety of physical (e.g., date of birth, height, weight, hair color, eye color, etc.) and dental characteristics. It is continuously available to law enforcement agencies to assist in locating and recovering missing and unidentified persons.

Penal Code Sections 14205 and 14206 require that local law enforcement agencies accept any report regarding a missing person (including reports that are called into the agency) without delay.

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The following table identifies categories used for organizing missing persons information within the Missing/Unidentified Persons System.

Category	Description
Runaway	Children who have left home without permission of a parent or guardian
Lost	Persons who are lost or have wandered away
Catastrophe	Persons missing after a catastrophe (e.g., flood, earthquake, etc.)
Stranger Abduction	Persons taken by a stranger or nonfamily member
Parental/Family Abduction	Children taken by a parent or family member
Suspicious Circumstances	Persons missing under circumstances indicating possible foul play
Unknown Circumstances	Circumstances surrounding the disappearance are unknown
Missing Adult	Adults who have left of their own free will
Dependent Adult	Adults with physical or mental limitations who are missing

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Stolen Vehicle System (SVS):

The **Stolen Vehicle System (SVS)** is a database containing records related to vehicles, license plates, and vehicle parts that are under investigation.

The following table identifies the type of information that is stored in the Stolen Vehicle System.

Information regarding...	that have been...
Vehicles	Stolen, lost, pawned, repossessed, impounded (law enforcement hold), or recovered.
License plates	Stolen, or lost.

The information accessible from the Stolen Vehicle System pertains to a number of different types of vehicles.

Automobiles
Motorcycles
Motor Scooters
Mopeds
Personal trucks
Farm equipment
Golf carts
Commercial Trucks
Aircraft (except model aircraft)
Trailers
Mobile homes
Motorhomes
Construction equipment
Go-carts
Snowmobiles
Amphibious vehicles
All-terrain vehicles
Motorized wheelchairs

Information regarding any serialized component part of a vehicle may also be included in the Stolen Vehicle System.

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Automated Property System (APS):

The **Automated Property System (APS)** is a file system containing serialized property records involving property and jewelry.

The following table identifies the type of information that is stored in the Automated Property System.

Information regarding...	that has been...
serialized property	stolen, lost, found, held for evidence, under observation, pawned, or bought.
Non-serialized jewelry or property	pawned, or bought.

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Automated Firearms System (AFS):

The **Automated Firearms System (AFS)** is a file of serialized firearm records. There are two types of firearm records included: law enforcement status records and historical records.

Historical records are files pertaining to firearms that are associated with a person.

The following table identifies the information that is required to gain access to both the law enforcement records and the historical records of the Automated Firearms System.

Inquiries Into...	<i>Minimum Information Required</i>
Law Enforcement Status Records	Serial Number (SER) only or Serial Number (SER) Make (MAK) or Caliber (CAL)
Historical Records	Name (NAM) Date of birth (DOB) or Age (AGE) or Serial Number (SER) only or Serial Number (SER) Make (MAK) or Caliber (CAL)

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Report Writing

An officer's ability to clearly document the facts and activities of an investigation not only reflects on the officer's own professionalism but also on the ability of the justice system to prosecute the criminal case.

As much as 40% of an officer's work involves writing. Good investigative skills can be diminished if officers do not have the requisite skills to present their observations, findings, and actions clearly and concisely in writing.

An **investigative report** is a:

- Written document
- Prepared by a peace officer
- That records in detail
- That officer's observations and actions
- As they relate to a specific event or incident.

Each investigative report is a legal document that becomes a permanent written record of that event or incident.

A suspect's freedom, rights or privileges cannot be taken away or denied unless there is sufficient cause to justify such action. In order to ensure *due process*, officers, prosecutors, judges, etc., must have sufficient information and evidence to initiate or continue the judicial process and successfully prosecute or exonerate a suspect.

The judicial process cannot function without the investigative reports written by the officers who have the direct knowledge of an event or incident. An officer's report must present each event or incident in a complete and clear manner. Any investigation, arrest, prosecution, or other action taken must be initiated, supported, or justified by the information included in the report written by that officer.

Because an officer's reports are so important to the judicial process, each one must be able to stand up to critical review and legal scrutiny.

Use of Investigative Reports:

Although it is the officer in the field who gathers the initial information regarding a crime, that officer may not be the person who must use that information to make decisions regarding further actions. Those decisions are usually made by other people who were removed from the actual event. They must rely on the information in the investigating officer's report to make those decisions.

Officers who generate investigative reports must take into account the needs of each potential user of that report. The report must provide not only a clear word-picture of the event or incident but also the critical information necessary for those users to do their jobs.

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Characteristics of an Effective Investigative Report:

Officers are faced with a variety of events and incidents. The specific contents of the officer's reports must reflect that specific event or incident. Although the details may vary, there are six characteristics that all effective investigative reports have in common.

No matter what type of investigative report is being written (i.e., arrest report, incident report, etc.) that report must be:

- **F**actual,
- **A**ccurate,
- **C**lear,
- **C**oncise,
- **C**omplete, and
- **T**imely.

Peace officers can use the acronym **FACCCT** to help them remember these characteristics.

The critical nature of decisions that will be made based on an officer's investigative report requires that each report be factual. Users of the report must have an exact and literal representation of the event or incident. The factual report provides an *objective* accounting of the relevant facts related to the event or incident under investigation. Any subjective conclusions made by the reporting officer must be based on *objective facts*. These facts must also be articulated and documented within the body of the report.

The decisions made as well as actions taken by the users of the report must be supported by accurate information. There must be *no inconsistencies or discrepancies* between what took place and what is documented in the officer's report.

If the user of the report must stop and verify the accuracy of information, valuable time may be lost. If any specific information is found to be inaccurate, the credibility and reliability of the report itself may be jeopardized.

Accuracy is achieved by carefully, precisely, impartially, and honestly recording all relevant information.

An investigative report must speak for the investigating officer at a time when that officer is not present. There should be no doubt or confusion on the part of the user as to what the investigating officer is reporting. If that information is not clear and understandable, it is of little use.

Clarity is achieved by the use of appropriate language and logical order. The following table identifies a number of factors that can affect the clarity of an investigative report.

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Reports should be brief and yet contain all relevant information the users will need to do their jobs. Wordiness can make a report less readable and therefore less effective.

Accuracy, completeness, or clarity should never be sacrificed for the sake of brevity.

An officer's report must contain all the relevant information and facts the user of that report will need. If the user must contact the writer to gather additional information, the report is not complete and therefore ineffective.

Field Notes:

Officers must recognize that the information gathered during their initial investigation in the field will become the foundation for their investigative reports. If an officer's note-taking skills are inadequate, that officer's report will likely be inadequate as well.

The officers who investigate a crime or incident are responsible for providing the information other participants in the criminal justice system need to do their jobs effectively. This responsibility demands that officers rely on accurate sources of information when writing their reports.

Field notes are abbreviated notations written by an officer in the field while investigating a specific incident or crime. An officer's field notes are the *primary source* document that the officer will use when writing the investigative report. For that reason, if the officer's field notes are incomplete, difficult to read, or poorly organized, they will be of little use to that officer.

Field notes are recorded while information is fresh in the investigating officer's mind. They should be taken:

- At the scene of an event or incident,
- When interviewing persons, (e.g., victims, witness, suspects, etc.)
- Whenever an officer wishes to record specific facts for inclusion in the report, and
- Any time the officer wishes to remember specific details at a later time.

Every event or incident is different; therefore, the facts and information the officer must gather will differ. An officer's field notes should contain the facts and information that will aid that officer in answering the questions *what, when, where, who, how, and why*.

The type of crime or incident will also indicate what specific information is required for the officer's notes.

For example, specific information for a burglary may include, but not be limited to:

- Point of entry,
- Point of exit,
- Losses,
- Types of property taken,

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- Description of suspect's vehicle, or
- Nature and location of evidence taken.

Opinions, Facts, and Conclusions:

An effective investigative report must be *factual*. It must present an *objective* accounting of the relevant facts related to the event or incident under investigation. This requires that the officer be able to distinguish between an opinion, a fact, and a conclusion when taking notes in the field.

The basis for determining relevant information requires officers to make the fine distinctions between an **opinion**, a **fact**, and a **conclusion**.

It is possible for information to be factual and yet still not be relevant to the incident or event being investigated.

Fundamental Content Elements of Investigative Reports:

Officers must recognize that in order for their investigative reports to be of use to the other participants in the judicial process, the reports must be well organized and developed and include the facts needed to establish that a crime has been committed and that all actions taken by officers have been appropriate.

Investigative Report Formats:

An investigating officer communicates with the other participants in the judicial process through that officer's written investigative report. The adequacy of that communication is dependent on the officer's ability to logically organize events and clearly state the relevant facts related to the incident.

There are two basic format styles used to organize information within the body of an investigative report. The difference between the two format styles is not the information they require (both formats provide the reader with the same information), but rather with *how that information is presented*.

The narrative format is the primary format used.

With a **narrative format**, information is organized as a running description of the event. Paragraphs are not titled, and no headings are used. With the narrative format, all the events are presented in the order they took place, or in the order, the officer carried out the investigation.

Specified headings used within the body of the investigative report can vary depending on the requirements of each department or agency.

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Proofreading:

Proofreading may seem time-consuming to both experienced and inexperienced writers. In the case of investigative reports where accuracy, clarity, and completeness are essential, proofreading is critical.

A report's effectiveness and an officer's credibility can be damaged by a report with too many mechanical errors. When proofreading the reports, they have written, officers should look for:

- Inappropriate use of the parts of speech (e.g., use of nouns, pronouns verbs, etc.),
- Language that may be vague or confusing,
- Incorrect or inappropriate use of words,
- Spelling errors,
- Inappropriate punctuation, and
- Incorrect use of law enforcement abbreviations.

Slowly reading a completed report aloud is one of the *most effective* methods for proofreading the content and mechanics of any document. When sentences are heard, it may be easier for the writer to identify obstacles such as:

- Mechanical errors,
- Gaps in a logical flow,
- Skewed time sequences,
- Incorrect verb tenses,
- Cumbersome phrasing, etc.

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INTRODUCTION TO THE VARIOUS REPORT FORMS

The FTO will explain to trainees each form that is currently being used by the patrol officer. An excellent assignment is for the FTO to have a trainee complete the more common report forms and the FTO will then review these forms for accuracy and completeness.

Incident Report:

General Information: The Incident Report form is the basic form for recording criminal reports for the Morgan Hill Police Department. It is the first page of every original report taken by Morgan Hill Police Department personnel. The form also allows for easy capture of information for use by detectives, crime analysis, and the records division.

Use of the Incident Report:

- To record criminal offenses.
- To record coroner's cases, suicide, or attempted suicide.
- To report all arrests.
- To document all 72-hour holds (5150 W/I).
- To report juvenile arrests (JCR is attachment).
- When deemed appropriate by the current circumstances or a supervisor.

For information regarding application, use and completion of the Incident Report form refer to the Morgan Hill Police Department Report Writing Guide.

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Report Writing General Information:

The writing of a good report increases an officer's chances of getting proper charges filed against a suspect and the subsequent conviction. The reports that are written will be viewed by countless people and will reflect on an officer's ability. No matter how good the investigation, the written report is what will often determine the outcome of a case.

The Morgan Hill Police Department began requiring all Morgan Hill Police Department personnel to use the countywide standardized report forms and format that is in use by most of the other police agencies in this county. The FTO will show trainee officers the proper way to complete these forms.

The FTO also has the ability to suggest changes or modification for those trainees that are experiencing problems in the area of report writing. However, trainees must remember that the FTO does not have the expertise or the time to teach proper spelling and grammar. Trainees are expected to have the ability to spell and use proper grammar before they enter the Field Training Program.

The FTO will assume that trainees have this ability and will be primarily working on the proper format and content of the reports. Trainees that do not have the ability to use proper spelling and grammar are at a tremendous disadvantage and will probably have extreme difficulty passing the Field Training program.

Trainees may want to consider the purchasing of a pocket size dictionary and/or spell-checking device to assist in writing reports.

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Pre-Hospital Communicable Disease Exposure Reporting Form (ERF-1):

Any Officer /Emergency First Responder who feels that he/she may have been exposed to a patient (in or out of custody) with a potentially life-threatening communicable disease should notify their Watch Commander.

The officer/emergency responder will submit information concerning the exposure to the Watch Commander. Examples of significant exposure would be exposure to blood, body fluids, needle sticks, aerosolized particles from someone in proximity actively coughing or sneezing, or while performing mouth to mouth resuscitation. The information to be provided will include:

- Incident date/time/location
- Incident Report number (IR#), if applicable
- Patient's name/DOB/Age/Sex/Address
- Hospital (transported to)
- Ambulance name and Unit number
- Booking and Arrest Report number (if patient is in custody)

The Watch Commander will complete the Exposure Reporting Form for determination if the exposure was significant for:

- Infectious pulmonary tuberculosis
- Bloodborne diseases, including hepatitis B and HIV
- Uncommon or rare diseases, such as diphtheria, meningococcal disease, plague, hemorrhagic fevers, and rabies.

The completed form will be sent to the receiving hospital to which the patient was transported. The hospital staff will notify the department and Public Health Control and prevention as to the pending tests or new information about the patient's communicable disease status.

This procedure is to comply with Federal Public Law 101-381 (Ryan White Care Act), and California Health & Safety Code 1707.188 (Royce SB 1518) and is in addition to the Morgan Hill Police Department Communicable Disease Protocol which incorporated California Penal Code 7510 and Health and Safety Code 199.97, as well as written consent.

Always use universal precautions as well as personal protective equipment in these situations, and should an exposure occur, seek medical attention immediately.

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Pursuit Report:

Vehicle Pursuit Defined: An event involving one or more law enforcement officers attempting to apprehend a suspect operating a motor vehicle while the suspect is attempting to avoid arrest by using high-speed driving or other evasive tactics, such as driving off a highway, turning suddenly, or driving in a legal manner but willfully failing to yield to the officer's signal to stop.

The primary beat officer that is involved in a pursuit as defined above will complete the CHP Form 187. The officer will fill out each section of the form, including Section II, and forward it to his/her immediate supervisor. This form is eventually sent to the State for statistical purposes and is not a part of the original report, nor it is used for court purposes.

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STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
PURSUIT REPORT
CHP 187A (New 1-03) OPI 051

NUMBER - Other Agency Use Only

ALL CALIFORNIA LAW ENFORCEMENT AGENCIES:

Vehicle Code Section 14602.1 requires that "every state and local law enforcement agency, including, but not limited to, city police departments and county sheriffs' offices, shall report to the Department of California Highway Patrol, on an approved form, all vehicle pursuit data." This form has been developed to record this information.

Vehicle Pursuit Defined: An event involving one or more law enforcement officers attempting to apprehend a suspect operating a motor vehicle while the suspect is attempting to avoid arrest by using high speed driving or other evasive tactics, such as driving off a highway turning suddenly, or driving in a legal manner but willfully failing to yield to the officer's signal to stop.

SECTION I - ALL AGENCIES COMPLETE			
1. AGENCY NCIC	2. AGENCY NAME	3. DATE OF PURSUIT	4. TIME OF PURSUIT (E.g., 24 Hrs. - 14:30)
5. PURSUED VEHICLE LICENSE NUMBER	6. STATE	7. IF NO PLATE OR "COLD PLATED" USE VIN	8. TOTAL TIME OF PURSUIT (Minutes)
9. TOTAL PURSUIT DISTANCE (Miles)	10. COUNTY WHERE PURSUIT STARTED		
11. I.D. NUMBERS OF OFFICERS INVOLVED (Do not list names)			
12. DID YOUR AGENCY INITIATE THE PURSUIT? NO <input type="checkbox"/> YES <input type="checkbox"/>		13. DID YOUR AGENCY TURN PURSUIT OVER? IF YES, INDICATE AGENCY NO <input type="checkbox"/> YES <input type="checkbox"/>	
14. DID YOUR AGENCY TERMINATE PURSUIT? NO <input type="checkbox"/> YES (IF YES, go to Section II below) <input type="checkbox"/>			
SECTION II - COMPLETE ONLY IF YOU TERMINATED THE PURSUIT			
15. AGE OF PERSON PURSUED	16. GENDER OF PERSON PURSUED MALE <input type="checkbox"/> FEMALE <input type="checkbox"/>	17. DRIVING UNDER THE INFLUENCE? NO <input type="checkbox"/> YES <input type="checkbox"/> IF YES, CHECK <input type="checkbox"/> ALCOHOL <input type="checkbox"/> DRUGS <input type="checkbox"/> COMBO	
18. RACE OF PERSON PURSUED			
<input type="checkbox"/> White	<input type="checkbox"/> Japanese	<input type="checkbox"/> Laotian	<input type="checkbox"/> Guamanian
<input type="checkbox"/> Black	<input type="checkbox"/> Chinese	<input type="checkbox"/> Other Asian	<input type="checkbox"/> Hawaiian
<input type="checkbox"/> Hispanic	<input type="checkbox"/> Cambodian	<input type="checkbox"/> Filipino	<input type="checkbox"/> Pacific Islander
<input type="checkbox"/> Vietnamese	<input type="checkbox"/> Korean	<input type="checkbox"/> Samoan	<input type="checkbox"/> Asian Indian
19. WERE THERE ANY INJURIES INCURRED AS A RESULT OF A COLLISION? If yes, indicate the number of each type of injury: Police Officer(s) Suspect(s) Other(s)		20. WERE ANY INJURIES INCURRED AFTER THE VEHICLE PURSUIT? If yes, indicate the number of each type of injury: Police Officer(s) Suspect(s) Self-inflicted Other(s)	
Fatal Injury _____ Severe Injury _____ Other Visible Injury _____ Complaint of Pain _____		Fatal Injury _____ Severe Injury _____ Other Visible Injury _____ Complaint of Pain _____	
21. IF THE SUSPECT <input type="checkbox"/> WAS PURSUED, WHICH ONE OF THE FOLLOWING MOST NEARLY DESCRIBES THE EVENT TERMINATING YOUR AGENCY'S INVOLVEMENT IN THE PURSUIT?			
<input type="checkbox"/> Pursued driver voluntarily stopped <input type="checkbox"/> Forcible stop <input type="checkbox"/> Pursued vehicle became disabled <input type="checkbox"/> Pursuing vehicle became disabled		<input type="checkbox"/> Pursuit aborted by law enforcement agency <input type="checkbox"/> Pursued vehicle and pursuing vehicle collided <input type="checkbox"/> Pursued vehicle involved in collision <input type="checkbox"/> Pursuing vehicle became involved in collision	
<input type="checkbox"/> Pursuit continued by another agency <input type="checkbox"/> Pursued vehicle escaped pursuing <input type="checkbox"/> Driver abandoned vehicle and fled on foot Other: _____			
22. ORIGINAL VIOLATION OBSERVED BY AGENCY INITIATING THE PURSUIT (Leave this section blank if your agency did not initiate pursuit)			
Section & Code: a. <input type="checkbox"/> Felony b. <input type="checkbox"/> Misdemeanor c. <input type="checkbox"/> Infraction d. <input type="checkbox"/> BOL/Warrant/Wanted e. <input type="checkbox"/> Other: _____			
22. MOST SERIOUS VIOLATION SUSPECT(S) CHARGED WITH UPON TERMINATION OF THE PURSUIT (Do NOT use 2800.2, or 2800.3 CVC)			
Section & Code: a. <input type="checkbox"/> Felony b. <input type="checkbox"/> Misdemeanor c. <input type="checkbox"/> Infraction d. <input type="checkbox"/> BOL/Warrant/Wanted e. <input type="checkbox"/> Other: _____			
SUPERVISOR'S SIGNATURE (Optional)		COMMANDER'S SIGNATURE (Optional)	

Destroy Previous Editions Of CHP 187

c187a203.fnp

Morgan Hill Police Department
Field Training Manual
Private Person's Arrest

It is not uncommon for beat officers to respond to an incident that will involve a private person's arrest ("citizen's arrest" - 837 PC). Officers must ensure that the private person making the arrest has met the requirements in 837 PC before accepting the arrest. If the requirements of 837 PC are not met, officers do not have to accept the arrest of the subject (142(c) PC). Officers are not civilly liable under state law if they do not accept this arrest. Officers must conduct a thorough investigation to determine whether or not 837 PC has been satisfied. If it has been satisfied, they must accept the arrest per 142(a) PC.

Officers must complete an Incident Report on all private person's arrests. If the subject is released, then the District Attorney's Office will review the report to see if any further action is warranted. The report should include the full identity of the private person making the arrest and the fact that this person is the one that placed the person under arrest.

Depending on the charges and other circumstances, the officer can do the following:

- * Obtain all the necessary information for the report then release the violator per 849 (b) PC and refer the matter to the District Attorney's Office for review.
- * Issue the violator a misdemeanor citation. (Refer to 853.6 PC.)
- * Book the violator into jail.

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Field Training Manual
General Points of Law

- Definition of a crime (15 PC)
- Classification system of crimes (16, 17, 18, and 19 PC)
- Definition of *corpus delicti*: Substantial fact establishing that a crime has been committed.
- Types of criminal:
 - Specific
 - Transferred intent
 - General intent
 - Criminal negligence
- Definition of *entrapment* – Something so appealing that the normally prudent person would be lured into the act or action.
- Definition of “which persons” are capable of committing a crime (26 PC).
- Definition of the following:
 - *Case law*: Laws that are enacted by judicial review.
 - *Statutory law*: Laws enacted by the legislative body.

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Laws of Arrest

The following penal code sections should be referred to for information on this section:

- Peace officer and authority (830.1 PC)
- Arrest (834 PC)
- How an arrest may be made (835, 835a, and 843 PC)
- Circumstances when an arrest may be made (836 PC)
- Posse comitatus (150 PC)
- Time of day an arrest can be made (840 PC)
- What a peace officer must inform a person of when he/she is arrested (841 PC)
- When the peace officer may search a person and when the officer may take a weapon from the person (833 and 846 PC).

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Juvenile Matters

Juvenile Contacts – General Provisions:

A juvenile is a person under 18 years of age. Officers are encouraged to dispose of juvenile matters in the field.

Juvenile Contact Report (J.C.R.):

When issuing a juvenile citation, the Juvenile Contact Report Citation Form (J.C.R.) will be used. A juvenile can be released after signing a J.C.R. citation for a misdemeanor or a felony. In both cases, an Incident Report is required, and the J.C.R. is an attachment. If the juvenile is to be booked, the narrative portion of the J.C.R. shall be filled out to the satisfaction of Juvenile Hall staff.

Miranda Rights (625 W&I):

A juvenile will be advised of his/her Miranda Rights whenever there is a custody situation. The issue of whether or not the officer wishes to question the juvenile has no bearing on this requirement.

Notification of Parents/Telephone Calls (627 W&I):

Per Section 627(a) W/I, when an officer takes a minor before a probation officer at a juvenile hall, he/she shall take immediate steps to notify the minor's parent, guardian, or a responsible relative that such minor is in custody and the place where he/she is being held.

Per 627(b) W/I, immediately after being taken to a place of confinement and no later than one hour after he/she has been taken into custody, the minor shall be advised and has the right to make at least two telephone calls from the place he/she is being held.

Dependent Juvenile (Child) (300 W&I):

Officers may, without a warrant, take custody of any dependent juvenile when one or more of the following elements are present:

- When officers have reasonable cause to believe that the juvenile has no parent or guardian willing, capable, or actually exercising care or control.
- When the juvenile is destitute and not provided with the necessities of life or suitable home.
- When the juvenile is a danger to the public, and such danger is the result of a mental or physical disorder.

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- * When the juvenile is being neglected, deprived or physically abused by a person having custody of such juvenile.

An officer taking custody of such a juvenile will report the circumstances in detail on a J.C.R., deliver the juvenile to the County Children's Shelter and complete an Incident Report.

Status Offender (601 W&I):

Officers may, without a warrant, take custody of any juvenile when the juvenile continuously disobeys the reasonable and proper orders or directions of a parent, guardian or custodian, or is beyond the control of such persons.

The officer assigned to the incident will determine that the elements of 601 W&I are clearly present and that the juvenile is not a law violator (602 W&I) or a dependent minor (300 W&I). These facts will be recorded on a J.C.R. by the assigned officer.

Officers should inform the reporting party that the juvenile laws do not provide for placement of status offenders into secure detention facilities, and officers will then attempt to resolve the issue through the use of public or private counseling services (Bill Wilson House, Eastfield Ming Quong, etc.).

Law Violators (602 W&I):

When the juvenile is a suspect in a criminal offense, the officer assigned will process the incident in accordance with one of the following appropriate procedures:

- Book the juvenile into Juvenile Hall
- Cite and release the juvenile

Juveniles Arrested for Certain Offenses:

Persons under 18 years of age who are arrested for drunkenness, glue sniffing, or narcotics, and who display the symptoms of intoxication to a degree where injury might result, must be taken to a medical facility for an examination prior to booking a Juvenile Hall.

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Private Person's Arrests Involving Misdemeanor Violations:

When officers find it necessary to accept a private persons arrest the following will apply:

Officers should have the victim or other person who observed the misdemeanor violation perform a citizen's arrest of the juvenile suspect. The juvenile suspect will then be taken into custody and processed in the prescribed manner. Discretion should be used in permitting juveniles to arrest other juveniles.

NOTE:

Juveniles are an exception to the misdemeanor committed in your presence rule and can be arrested without a private person's arrest as long as probable cause exists (625 W&I).

- Issuance of a citation: When a private person's arrest for a misdemeanor violation is made, or the officer reasonably believes there is a misdemeanor violation, a citation may be issued in lieu of booking into Juvenile Hall. The J.C.R. form will be used for this purpose.
- Arrest for felony: When the circumstances and facts cause an officer to reasonably believe a felony has been committed, that officer will make an arrest as authorized by 625(b) of the Welfare and Institutions Code.

Photographs and Fingerprints:

A juvenile that has been arrested must be printed and photographed prior to booking into Juvenile Hall. Without this identification process completed, the Morgan Hill Police Department cannot capture this data as Juvenile Hall will not fingerprint or photograph for us. Discretion should be used to transport a juvenile to the records section to print and photograph prior to citing a juvenile.

DOJ will enter all fingerprints submitted to them, including juveniles, which gives a starting point for a majority of crimes in the investigative process.

The Morgan Hill Police Department has the ability to handle this procedure through our normal booking process.

In all cases when an arrest of a juvenile has been made, officers continue to have the discretion outlined in Section 626, which allows officers to counsel and release, cite and release, or take the juvenile to Juvenile Hall.

Remember: A warrant for cases involving a juvenile suspect should not be requested unless the suspect cannot be located. It is preferred that the juvenile suspect is cited for the violations. Juvenile Probation will then automatically review the matter.

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Emancipation of Minors:

In most instances, a person becomes an adult in the State of California when he/she reaches the age of 18 years. However, it is possible for a minor to have most of the rights of an adult prior to the age of 18 years and this is called “emancipation.”

The “Emancipation of Minors Act” starts at section 60 of the Civil Code. This section statutorily defines emancipation of minors and expressly enumerates the rights, liabilities, and privileges of emancipation.

Per section 62 of the Civil Code, the minor (any person under the age of 18 years) must meet one or more of the following criteria to be considered emancipated:

- Enters into a valid marriage which requires a parental approval or a superior court order, even if the marriage ends in dissolution;
- Is on active military duty;
- Receives a “Declaration of Emancipation” from the superior court. To receive this declaration, the minor must be at least 14 years of age, willingly living separated and apart from his or her parents or guardian, and managing his or her own lawful financial affairs, (Section 64 CC).

Section 63 of the Civil Code lists the rights, privileges, and liabilities that a minor receives after being emancipated. An emancipated minor is considered as being over the age of majority (18 years) for, among others, the purpose of:

- Consenting to medical, dental or psychiatric care without parental consent, knowledge or liability;
- Entering into binding contracts;
- Suing and being sued;
- Terminating his/her rights to support by his parents;
- Terminating his parents’ right to control him/her of their earnings;
- Establishing a residence;
- Buying, selling, encumbering, exchanging, etc. real property;
- Applying Sections 300 and 601 of the Welfare and Institution Code.

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Assisting the Public in the Field

Lockouts of Vehicles:

Officers are discouraged from using a “Slim Jim” or other device to aid citizens in entering their locked vehicle. The officer, not the Morgan Hill Police Department, could be liable for any damage done to the vehicle. Also, many cars now have electric locking devices or other theft deterrents that may be damaged by attempting to use a “Slim Jim” or other device to gain entry. Citizens should be told to contact a qualified locksmith or a tow company for help.

Jump-Starting Vehicles:

Officers are discouraged from jump-starting citizen’s vehicles. Damage can be caused to both vehicles should the jumper cables be applied improperly. Citizens should be told to contact a tow company for help, or the officer can do so through Communications.

Escorting of Private Vehicles:

Officers should not normally escort a private vehicle to a hospital. He/she should call for an ambulance and render necessary first aid at the scene until its arrival. Should there be no other acceptable alternative; the officer should request approval from the field supervisor to place the person into the patrol vehicle for transport to the hospital. The driver of the other vehicle should be told not to follow the patrol unit, but drive cautiously to the hospital and obey all traffic laws.

Only under an extreme life-threatening situation should an officer act as an escort for another vehicle in going to the hospital. The field supervisor must approve of such a request, and the officer will assume all responsibilities for the conduct of the escort. The officer must be able to fully articulate the reason that they took this course of action should an unfortunate situation arise as a result of such an escort.

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Police Patrol Techniques

To safely and effectively fulfill their duties of public protection and service, peace officers must be able to develop appropriate law enforcement patrol strategies under a wide variety of circumstances and conditions.

Law enforcement patrol is one of the most frequent assignments a uniformed peace officer will be called upon to perform. A patrol assignment may involve the use of automobiles, motorcycles, bicycles, or other law enforcement vehicles. It can also include foot patrol in a designated area as well.

Effective law enforcement patrol is made up of two fundamental elements: protection and service.

To provide protection and service, officers must develop a “beat knowledge” of the area they have been assigned to patrol. Such knowledge includes not just knowing the basic layout and makeup of the area, but also recognizing locations within the area that may require the officers’ specific attention.

Strategy	Primary Objective	Example
Preventative patrol	<ul style="list-style-type: none">To be highly visible in order to discourage occurrences of unlawful or problem activity	<i>Conducting visible patrols through a parking structure where there have been a large number of auto thefts with the intention of dissuading potential thieves from stealing cars</i>
Directed enforcement patrol	<ul style="list-style-type: none">To apprehend violators or concentrate patrol activities on particular circumstances or problem areas	<i>Hiding from view and maintaining surveillance of a parking structure where there have been a large number of auto thefts with the intention of arresting a car thief in the act of stealing a car</i>

Officers must function as trained observers. Officers on patrol are expected to:

- Practice disciplined *observation*, and
- Apply their training and experience to accurately *perceive* what is occurring or is about to occur.

To an officer, observation means the ability to gather information by noting facts or occurrences with a heightened sense of awareness. While on patrol, officers must use not only their eyes but all of their senses including hearing, smell, etc. to obtain information from the outside world.

Observation can be enhanced by:

- Training (*knowing what to look for*),
- Experience (*knowing where and when to look for it*), and

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- A variety of special tools (e.g., binoculars, night vision scopes, etc.).

Preventative Patrol:

Use of a preventative patrol strategy is specific to providing protection from criminal activity. It has been consistently demonstrated that where there is a visible law enforcement presence, there is a reduction in criminal activity.

To be effective as a deterrent to crime, a law enforcement presence should be highly visible within the community, especially in areas that are high-risk crime targets. Preventative patrol actions include:

- Maintaining a law enforcement presence and visibility within the community,
- Conducting frequent security checks of high-risk targets and businesses, and
- Conducting checks of persons who may be involved in suspicious activities.

Three fundamental objectives of conducting security checks of businesses, residences, and other structures within an officer's area of assignment are:

- Help the officer remain knowledgeable about the specific structure or area (e.g., layout, normal activity in and around the area, normal conditions of the structure, etc.)
- Discover any suspicious activity or evidence of criminal activity (e.g., burglary)
- Enhance community relations by maintaining high visibility

When conducting security checks, patrolling officers should:

- Cover as much of their assigned areas as possible, including secondary thoroughfares (e.g., alleys, walkways, parking areas, etc.), as well as primary streets,
- Pay extra attention to areas that have a high crime risk,
- Constantly vary their patrol patterns and routines to prevent predictability,
- Employ appropriate investigative tactics and equipment (e.g., use of spotlights, flashlights, alley lights, etc.), and
- Implement additional patrol methods whenever possible (e.g., foot patrol, bicycle patrol, etc.).

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Directed Enforcement Patrol:

Realistically, patrol officers cannot completely cover all parts of their assigned areas. Use of a directed enforcement patrol strategy can target areas where problems are likely to occur by concentrating patrol activities on particular circumstances.

A thorough knowledge of one's own area of assignment and available resources is necessary to be able to respond where problems are more likely to occur.

Patrol Methods:

Law enforcement agencies may use many methods for patrolling specific areas of assignment. Whether the method involves a vehicle or some other mode of transportation, an officer can employ the method in a way that is highly visible (preventative patrol) or in a more covert manner (directed enforcement), depending on the circumstances.

A patrol assignment generally occurs within a specific geographical area. The size of an officer's assigned area of patrol is determined by a number of different factors.

Below are listed different types of patrol methods:

Vehicle:

- Most common and generally the most economical type of patrol
- Provides the greatest mobility and flexibility of operation
- Officer may wish to combine with foot patrol in certain areas as calls for service permit.

Advantages of Vehicle Patrol:

- Provides wider coverage of an area
- Offers greater law enforcement visibility
- Permits considerably more calls for service to be handled
- Generally provides enhanced communication (e.g., better radio range, computer availability, etc.)
- Reduces response time
- Enables the ability to carry additional equipment (e.g., evidence collection materials, shotgun, etc.)
- Allows officers to deal with mobile offenders
- Provides a method for transporting suspects, evidence, etc.

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Pedestrian Contacts:

In the course of conducting patrols, officers often initiate various contacts with pedestrians observed within their area of assignment. When making such contacts, officers must be aware of not only their own safety but also the rights of the individuals.

To protect an individual's constitutional rights, patrol officers must have a clear understanding regarding pedestrian contacts that are considered a lawful consensual encounter from one that would constitute a lawful detention.

The following table presents a comparison of both types of pedestrian contacts.

	Consensual Encounter	Detention
Description	<ul style="list-style-type: none">• Contact between a private individual and a peace officer where the individual is not obligated to stay, cooperate or answer questions.	<ul style="list-style-type: none">• An assertion of authority that would cause reasonable individuals to believe that they are obligated to stay, cooperate, or answer questions.
Individuals in effect are told...	<ul style="list-style-type: none">• "You are free to leave or not cooperate at any time."	<ul style="list-style-type: none">• "You must cooperate and are not free to leave the scene until told you can do so."
Justification Required	<ul style="list-style-type: none">• None.	<ul style="list-style-type: none">• Officer must have reasonable suspicion; that is, a factual basis for suspecting the individuals are connected with criminal activity.

Without proper knowledge and understanding of the appropriate actions leading to and during a pedestrian contact, patrol officers may lead to:

- An improper or unlawful detention or arrest,
- Unsuccessful court prosecutions, or
- Possible injury to the officers or pedestrians.

Plainclothes/Undercover Officers:

While on patrol (or when off duty) officers may encounter peace officers who are functioning as plainclothes/undercover officers. If such an encounter takes place, patrol officers should take all necessary measures *not to draw attention to the plainclothes/undercover officer*.

Do not show any recognition towards the plainclothes/undercover officer, unless that officer initiates the contact. To do so might inadvertently compromise an undercover operation or investigation.

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If the plainclothes/undercover officer does not acknowledge the patrol officer, the patrol officer should treat the plainclothes/undercover officer as any other private person with whom the patrol officer is not acquainted.

If a patrol officer initiates an enforcement contact and then realizes a plainclothes/undercover officer is part of the group being contacted, the patrol officer should treat the plainclothes/undercover officer the same as all other individuals in the group (e.g., maintain cover and control positions, conduct a patdown search, etc.).

Foot Pursuits:

Foot pursuits are one of the most dangerous and unpredictable situations for patrol officers. All foot pursuits must be considered high risk and never be taken lightly.

Foot pursuits can be difficult to control or coordinate. There are a number of inherent dangers regarding foot pursuits of which patrol officers must be aware.

During a foot pursuit:

- The fleeing suspect controls the route, not the pursuing officer(s).
- Officers may lose track of their own locations as well as that of the suspect.
- An officer may be separated from his or her partners.
- Radio transmissions often become very difficult to understand.
- Officers can drop and/or lose equipment (e.g., radios, batons, keys, etc.).
- Officers may be led into high-risk areas and become vulnerable to ambush situation involving additional suspects.

Officers must consider not only their own safety but the safety of fellow officers and the public before initiating a foot pursuit.

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Patrol Activity – General/Traffic Control

Patrol Knowledge - General:

Officers need to know the following information in order to work his/her beat effectively:

- Locating odd/even street numbers:
 - The **odd** numbers are usually on the north or west side of a street, (**N**orth **O**dd **W**est: **NOW**).
 - The **even** numbers are usually on the south or east side of a street, (**S**outh **E**ven **E**ast: **SEE**).
- The whereabouts of north, south, east, and west directions
- Bank/savings and loans locations
- Shopping center locations
- Hospitals
- Schools
- Unusual businesses (gun shops, gold/jewelry exchanges)
- Problem areas
- How to report needed street repairs or traffic hazards - notify Communications of problems and state whether the proper agency will need to respond immediately or code one.
- Location of the other police agencies in the county

Fixed Point Traffic Control:

A patrol officer will periodically need to assume a fixed-point traffic control position.

- The primary function of traffic control is to eliminate congestion, facilitate the movement of traffic, and enforce traffic laws.
- Fixed-point control may be at intersections, pedestrian crossings, accidents, fires, roadblocks, construction sites, major crime scenes, public events, etc.
- The allocation of time for the flow of traffic in any one direction is determined by the volume of traffic and how it may be coordinated with adjacent intersections (e.g., longer time when traffic is heavy, shorter time when traffic is light).
- When there is a predominant turning movement, a 3-phase control is

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recommended to take care of each flow of traffic individually. There should be separate time intervals allowed for the north-south flow, the east-west flow, and the turning flow while both of the others are stopped.

- Anticipate congestion on roads leaving the intersection due to cars turning into parking lots or buses loading or unloading. Never allow traffic to back up across an intersection.
- Where traffic is being handled by group control or two or more officers, one of these officers shall give the master signal by which others will be guided.
- Officers must position themselves so that they can see and be seen by all approaching lines of traffic and pedestrians without interfering with the movement of traffic or their own safety. Keep eye contact with the drivers of vehicles.
- Manual directions to motorists and pedestrians should be given clearly and distinctly. They must be directed towards the person for whom they are intended and must be obeyed just like a traffic signal. An officer's erect, alert bearing will be transmitted to both motorist and pedestrian. Ample warning must be allowed to afford an opportunity to comply depending on the speed and weight of approaching vehicles as well as on the condition of the pavement. At nighttime, manual directions will be given with the flashlight in a manner more slowly than in the daytime, remembering that the flashlight head cannot be seen at an angle.
- Stand straight with weight distributed evenly on each foot. Emphasis should be placed on use of the hands, as the public more readily understands slow, understandable, motions of the hands. Sharp, crisp, slow hand signals in conjunction with whistle signals will result in less confusion, and more traffic moved in an orderly, safe manner. The following hand signals are to be used:
 - TO STOP TRAFFIC: Use one, long whistle blow and raise a hand so that the palm is toward the driver. Hold this until driver stops. This same technique is used to stop traffic from two directions by holding both hands up simultaneously toward the directions to be stopped. Don't lower either arm until cars coming from both directions are halted.
 - TO START TRAFFIC: Use two short, sharp whistle blows and point with an arm and finger toward the car that needs to start. Hold it until obtaining their attention. Then with the palm up, swing that hand up and over to your chin, bending the arm only at the elbow. Use this same signal to give the go-ahead to slow and timid drivers.
 - TO SIGNAL FOR TURNS: Use two short, sharp whistle blows and point toward the driver with an arm, giving him/her time to see the gesture and then point the arm and forefinger in the direction the driver is to go. While one arm is pointing the direction of the turn, use the other arm in the "start traffic"

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motion to wave the driver into the turn. If it is necessary to hold another direction stopped while attempting to signal a turning vehicle raise and lower the pointing forearm repeatedly while continuing to point in the direction of the turn.

- While working a fixed traffic post, preference should be given to properly controlling traffic. Enforcement action may be taken in case of violations involving failure or refusal to follow the controlling officer's directions. However, this should only be done when it can be accomplished without jeopardizing the efficiency of the traffic control. Yelling at motorists should be avoided, as there is always the possibility they did not understand the controlling officer's directions.
- Information seekers should be discouraged from stopping in traffic and should only be talked to if the controlling officer can leave his/her post to meet them away from the traffic flow.
- The following are instructions for special case traffic control:
 - EMERGENCY VEHICLES: Provide for the safe movement of emergency vehicles through intersections or controls points. Make certain that an exit is open in the direction the emergency vehicle will travel. Be alert for emergency vehicles approaching the intersections at right angles to each other because their sirens make it difficult for one to hear the other. If they are in danger of colliding, hold one back until it can safely proceed. After the emergency vehicle has passed the intersection, be certain to hold all movements until you know that no other emergency cars are following.
 - ACCIDENT SCENE: At the scene of a traffic collision the primary function of the officer assigned to traffic control is to clear the immediate area of vehicular and pedestrian traffic. Also, consideration should be given to the preservation of evidence while diverting the flow of traffic.
 - DISASTER PERIOD: Keep the sightseeing public away from the area, as they deter the efforts of a successful operation, create traffic hazards, place other persons as well as themselves in areas of danger, etc. Section 409.5 PC empowers peace officers to close areas during an emergency (flood, storm, fire, earthquake, explosion, accident or other disaster). Anyone entering into or remaining in such an area is guilty of a misdemeanor, with the exception of authorized representatives of any news service, newspaper, radio or television station.
 - INTERSECTION CONTROL: Where there are no signals or the signals are out of order, first observe the intersection and if possible, determine the natural traffic pattern. Regulate the change of traffic flow as needed. Traffic flow should be coordinated with adjacent intersections to keep it from backing up and blocking the intersection under point control.

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- Guard against needless regulation at any location that, if left alone, would adjust itself. However, take charge when congestion appears, and remain on the job until danger of a traffic jam is passed. Be alert for pedestrian traffic as they are in need of control along with the vehicles. Never try to stop traffic that is approaching too closely at a reasonable speed as it may cause rear-end collision.

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Vehicle Stops

Officers must recognize the inherent risks involved when conducting a vehicle pullover in order to take the appropriate precautions necessary to ensure their own safety as well as the safety of others.

Conducting vehicle pullovers is one of the most frequent duties that a patrol officer will perform. Peace officers conduct vehicle pullovers for a wide variety of reasons ranging from issuing a citation for an equipment violation to apprehending an armed and dangerous felon.

Conducting a vehicle pullover can be one of the most dangerous duties a patrol officer can perform. Violent acts that have taken place during a vehicle pullover are among the leading causes of officer injuries and death.

Low Risk:

There is no such thing as a vehicle pullover that can be considered “low risk.” This term is inappropriate because it suggests that no or very little hazard exists when in fact the degree of danger is *uncertain*.

As a general rule, **risk assessment** refers to the level of anticipated risk involved with any vehicle pullover based on the officer’s perception of danger due to a suspect’s conduct, or advance knowledge. This knowledge may come from sources such as, but not limited to:

- That officer’s personal observations,
- Information from dispatch,
- Information obtained by running the vehicle’s license plate,
- Number of occupants in the vehicle,
- Availability of assistance/back up units, or
- Other means the officer may reasonably rely upon, e.g., crime broadcasts, criminal information bulletins, hot sheets, attempts to locate (ATLs), personal crime notes.

Vehicle pullovers can also be generally divided into three basic categories based on the degree of risk anticipated.

- Traffic enforcement pullovers
- Investigative pullovers
- High-risk pullovers

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Officer Safety During Vehicle Stops:

Conducting vehicle pullovers can be one of the most dangerous duties a peace officer performs. Violence related to vehicle pullovers is among the leading causes of peace officer injuries and deaths.

Officer safety refers to the practical application of tactically sound procedures in conducting all categories of vehicle pullovers. Specifically, officer safety involves:

- Developing a plan of action prior to initiating the pullover,
- Requesting and using backup assistance when necessary,
- Appropriately using communication/notification resources, and
- Applying safe and sound tactics when:
 - initiating the pullover,
 - approaching the vehicle, and
 - making contact with the vehicle occupants.

Because of the frequency of vehicle pullovers, officers can come to regard such tasks as “routine.” Such complacency compromises officer safety by causing officers to ignore danger signs during vehicle pullovers.

Officers should handle all vehicle pullovers with caution and always keep in mind that ***no vehicle pullover is “routine.”***

Statistical analysis has shown that vehicle pullovers are the second most dangerous law enforcement activity a patrol officer can encounter. (*California Law Enforcement Officers Killed and Assaulted in the Line of Duty*, 1996.)

Safety hazards that may be inherent with vehicle pullovers include, but are not limited to:

- Unpredictable, aggressive actions by the violator/suspect or bystanders,
- Unknown identity of the violator/suspect, (e.g., dangerous felon wanted for a crime not associated with the traffic stop)
- Dangerous environmental conditions, (e.g., fog, ice, bright sunshine, etc.)
- Varying road conditions, (e.g., multiple lane traffic, narrow or no shoulders, etc.)
or
- The existence of other vehicular traffic on the same roadway.

Patrol officers who fail to recognize the inherent dangers of conducting a vehicle pullover may ignore danger signs and fail to take appropriate precautions.

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Basic Tactical Considerations:

Officers must understand the techniques for tactically sound vehicle pullovers in order to conduct pullovers in an efficient and safe manner.

In many instances where patrol officers were assaulted during vehicle pullovers, the officers had failed to plan ahead and develop an action plan to help ensure officer safety and a successful outcome to the enforcement action.

The actions an officer may take during a vehicle pullover may be dependent on the:

- Type of offense involved,
- Level of perceived threat,
- Environmental conditions, (e.g., weather, lighting, road surface, etc.) and/or
- Type of vehicle being pulled over.

Once the officer has a lawful justification for initiating a vehicle pullover, that officer should anticipate possible locations for the actual pullover to take place. The initiating patrol officer, *not* the driver of the target vehicle, should select the pullover site. If a suitable site is not immediately available, the officer may choose to defer initiating the stop until the officer is able to identify an appropriate location.

Patrol officers need to also select a location that presents the safest tactical advantages to the officers. Tactical issues that should be considered by the patrol officer include but are not limited to:

- Possible escape routes for the occupants of the target vehicle.
- Possible tactical retreat routes for the officers.
- Availability of **cover** and **concealment**.
- Avoidance of potentially hostile environments. (e.g., angry crowd, unruly groups, etc.)
- Avoidance of another interference potential. (e.g., pedestrian traffic, difficulty maintaining patrol vehicle security)

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Planning and Initiating a Vehicle Stop:

Prior to initiating the actual pullover, patrol officers should notify dispatch of their intended actions.

Patrol officers should provide information such as:

- A license number and vehicle description of the target vehicle.
- The anticipated location of the pullover and direction of travel.
- The legal justification or nature of pullover. (e.g., stopping a suspected DUI or stopping a stolen vehicle)
- Any other information pertinent to the pullover. (e.g., information on weapons, number of occupants, etc.)

Officers should make sure all communications are completed before initiating the vehicle pullover.

It is important to maintain a proper distance between the patrol vehicle and the target vehicle at the time the pullover is initiated.

Distance between vehicles

IF the patrol vehicle is...	THEN...	The patrol vehicle should be:
<i>too far</i> from the target vehicle,	the driver of the target vehicle may be able to flee.	Close enough so the officer can maintain visual contact with occupant(s) and/or their activities.
<i>too close</i> to the target vehicle,	there may be a greater potential for a rear-end collision if the driver of the target vehicle should make a sudden stop.	Positioned far enough behind the target vehicle so the patrol officer can read the license plate of the target vehicle.

Once a suitable location has been identified, and the patrol unit is in the proper position, the patrol officer can activate the warning lights on the patrol vehicle in an attempt to get the attention of the driver of the target vehicle.

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If the driver fails to respond to the warning lights, it may be necessary for the patrol officer to utilize one or more of the following additional methods.

- Honk the horn.
- Alternate high and low beams (day or night).
- Pan the spotlight, but avoid keeping it in one position which might blind the driver of the target vehicle.
- Use appropriate hand gestures, such as waving the person to the side of the road.
- Use the patrol vehicle's public address system to direct the driver to pull over.
- Give a short blast of the siren.

Occasionally, a patrol officer may encounter a driver who will not yield to any of the techniques previously noted. While this may be a deliberate failure to yield, officers should also consider the possibility that the driver has the radio or CD player turned at full volume or is talking on a cell phone.

Another possibility is that the driver has a physical impairment such as a hearing deficit. For example, an officer may encounter a deaf or hearing impaired driver during a traffic stop. That driver may not hear the officer or even be aware of the officer's presence.

If a driver of the target vehicle is aware of an officer's signals to stop but ignores them and continues to flee, patrol officers may initiate a vehicle pursuit of the suspect if:

- They have reason to believe the suspect presents a clear and immediate threat to the safety of others, *or*
- The suspect has committed or attempted to commit a violation of the law, *and*
- The necessity of immediate apprehension outweighs the level of danger created by the pursuit.

Officers must also make an honest assessment of their own *training and experience*, as well as the *capabilities and limitations of the vehicle* they are driving before they initiate a pursuit.

Approaching the Target Vehicle:

Officer safety depends on a thorough understanding of the tactical and safety considerations involved in approaching the target vehicle.

Patrol officers must constantly assess and reassess the level of risk throughout the vehicle pullover process. Letting one's guard down or becoming complacent at any time could give the suspect(s) an opportunity to assault the officer conducting the stop.

While the driver of the target vehicle is yielding to the patrol officer's signal to pull over, the patrol officer should:

- Determine the number of occupants in the vehicle,
- Carefully observe the occupant(s) actions such as:

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- Reaching under the seat, into any compartment (e.g., glove compartment), or
- Leaning over the front seat into the back, and
- Consider requesting additional assistance/backup officers if the patrol officer perceives a high level of potential risk.

It is the patrol officer's responsibility to direct the target vehicle to a safe location for stopping. If the driver of the target vehicle stops in an unsafe location, the patrol officer should instruct the person to move the vehicle to a different, more safe location. If the driver of the target vehicle appears to be impaired (e.g., intoxicated), the target vehicle should *not* be moved. The patrol vehicle should be positioned so as to afford protection to the target vehicle. The officer should approach the target vehicle, activate the lights and call for assistance for traffic control.

Patrol officers must select a safe and tactical position for the placement of the patrol unit. The actual distance from the patrol unit to the target vehicle will depend on a variety of factors, including but not limited to:

- The type of pullover,
- The type of vehicle being stopped,
- Available space, and
- Environment/topography.

Placing the patrol vehicle in an **offset position** means the officer will:

- Stop behind and slightly to the right or left of the target vehicle,
- With the center of the patrol vehicle in line with the right or left bumper of the target vehicle (whichever is the most appropriate).

Placing the patrol vehicle in an offset position generally provides additional protection for the patrol officer while approaching the target vehicle on foot.

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Patrol officers should exit their patrol units as safely and **quickly** as possible to minimize the danger of the officer being exposed while still seated in the vehicle. In order to accomplish this, officers should:

- Have all radio transmissions complete prior to activating emergency lights,
- Undo and clear the seat belt prior to coming to a complete stop,
- Place the patrol vehicle transmission in park,
- Set the parking brake,
- Switch on the portable radio, (If the radio is not available, the officer should activate the outside speaker and position the microphone for ready access.)
- Check approaching traffic and open the door only if the path is clear,
- Consider lowering the driver and passenger front door windows,
- Unlock the doors,
- Quickly exit the vehicle, and
- After exiting, momentarily pause to observe the target vehicle.

Once the officer has exited the patrol unit and determined that a safe approach can be made, the patrol officer should:

- Stay close to the patrol vehicle to minimize any hazard from passing traffic.
- Continuously observe the occupants of the target vehicle,
- Maintain an awareness of the surrounding and other hazards,
- Keep gun hand free during the approach, and
- Use a flashlight sparingly to avoid the potential of vehicle occupants being able to track the officer's movement.

Factors such as location, topography and the degree of perceived risk may all impact the approach method a patrol officer uses.

In some situations, it may be to the officer's advantage to allow the driver or occupants to exit the vehicle. When electing to use this strategy, the officer should remain at the patrol unit in a position of safety. Remaining seated in the patrol vehicle could place the patrol officer at a tactical disadvantage.

The patrol officer's observation of the target vehicle begins at the inception of the vehicle pullover and continues until the pullover is completed. But when the patrol officer approaches a target vehicle on foot, that officer has the advantage of time and location to check the interior of the target vehicle more carefully visually. Such plain view checks may provide the officer with probable cause for further investigation and more complete lawful searches of the vehicle's interior.

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Indicators of possible criminal activity include, but are not limited to:

- An empty holster,
- Ammunition,
- Firearm magazines,
- Actual firearms or other weapons, or
- Instrumentalities or evidence directly associated with a crime. (e.g., ski mask, drug paraphernalia, etc.)

For most people, their only contact with law enforcement will occur during a vehicle pullover. For this reason, patrol officers should strive to be courteous and professional during a vehicle pullover, while at the same time never letting their guard down.

When officers make contact with the driver of the target vehicle during a vehicle pullover, they should position themselves for the greatest safety and tactical advantage.

The attitude of the patrol officer can affect the reaction of the driver and the outcome of the vehicle pullover. Officers should make the approach in a businesslike manner while also employing effective verbal communication techniques. Flexibility and courtesy are important in making contact with the vehicle occupants.

It is generally desirable for patrol officers to have the driver and occupants of the target vehicle remain in the vehicle throughout the duration of the pullover. But in certain situations, officers may need to direct the driver/occupants to get out of the vehicle.

Examples of such situations include, but are not limited to:

- When the safety of the driver/occupants or the officer are at risk from passing traffic,
- Verifying identification,
- Conducting a sobriety check of a driver who may be DUI,
- Continuing an investigation,
- Searching the vehicle, or
- When an arrest is imminent.

A driver's license is one of the most common forms of identification. It is important that officers take appropriate actions to check both the *validity* and *authenticity* of the license and to establish the identity of the individual.

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Conducting a proper check of each driver's license can also:

- Confirm that the driver is authorized to operate a specific type of motor vehicle,
- Enforce the provisions of the Vehicle Code which require possession of a valid driver license,
- Verify that the driver is complying with any restriction on the driver license,
- Confirm the driver's identity so that the driver can be cited and released, and
- Verify that the address is correct.

Patrol officers should move to a safe and tactically appropriate location when conducting the business of the vehicle pullover. (e.g., running a license check, writing a citation, etc.)

Depending on the specific situation, officers should select a location which:

- Provides cover and/or concealment,
- Permits them to maintain visual contact with the target vehicle, and
- Permits them to observe the occupants of the target vehicle.

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Vehicle Stops - Conventional

An officer can protect himself/herself by being constantly conscious of their personal safety during traffic enforcement stops and when apprehending known or suspected criminals.

The examples given in this guide are not intended to be all-inclusive but are provided to assist officers in recognizing situations which require caution and to suggest methods of control, which will minimize the potential hazard.

An officer who recognizes personal danger and has an opportunity to call for assistance, yet rushes into action without obtaining help is not being heroic, such unwise action could result in the loss of life. Where opportunity permits, an officer who realizes he/she is in a potentially dangerous situation should notify Communications and request a backup unit (Code 2 or Code 3).

Rarely should circumstances force an officer into a potentially dangerous stop without assistance. Even then you should consider moving to a point of surveillance and awaiting assistance. The superiority of numbers, not the bravery of a single officer, is the best deterrent against being assaulted.

One Person Vehicle Stop:

Below is an acceptable way make a vehicle stop as a one person beat unit:

1. Pick the location for the stop prior to activating emergency equipment.
2. Notify Communications prior to making the stop.
3. Prior to exiting the patrol vehicle, observe occupant(s) for suspicious movement.
4. Exit patrol vehicle when no other traffic is approaching/passing from the rear.
5. Keep alert for movement of occupants while approaching vehicle; check trunk to ensure that it is secure and not hiding anyone.
6. All transactions should be conducted to the rear of the driver's door. An acceptable variation would be to move up to the front portion of the driver's door, sometimes affording a better view of the interior. This variation also affords the officer an opportunity to watch oncoming traffic.
7. When returning to your patrol vehicle, go to the passenger side (right) to issue the citation, conduct radio traffic, etc. Use the passenger door for cover.
8. Continually observe occupants movements in the vehicle.
9. Remain standing outside the vehicle at all times.
10. If a citation is to be issued, it should be done from behind the passenger door with the window down.
11. The re-approach for citation signature or additional information should be done in a like manner of the initial approach. Be aware of any changes to or within the vehicle, or its occupants.
12. When returning to the patrol car, stay alert until leaving, or the violator leaves. Keep the driver's door ajar until ready to clear. Do not go 10-8 until the stop is cleared.

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13. Do not:

- a. Concentrate too much on an unoccupied rear seat.
- b. Sit in the patrol vehicle to write a citation or conduct business.
- c. Permit the violator to sit in the patrol vehicle while a citation is being written.
- d. Stand or permit the violator to stand between vehicles.
- e. Remove more persons from a vehicle than you can control.
- f. Allow occupants to wander. Keep them under control and together.
- g. Hesitate to request a fill or “roll by.”

Two Person Vehicle Stops:

Below is an acceptable way to make a vehicle stop as a two-person beat unit:

1. Use the same criteria and safety concerns as the one-person vehicle stop when initiating the stop. The passenger officer may handle the radio traffic.
2. Both officers exit the patrol vehicle as soon as possible and pause behind their car doors to observe the activity of the occupant(s).
3. The passenger officer should begin the approach; the driver should be two to three steps behind in his approach. This deviation from the expected allows the officers the element of surprise and a preliminary check of the interior and occupant(s) before expected contact.
4. After the driver makes contact, the passenger officer must keep occupant(s) hands in sight at all times.
5. As the driver officer returns to the patrol vehicle, the passenger officer should keep the occupant(s) under observation, being aware of any unusual activity and keep their partner apprised.
6. The passenger officer must also remain aware of the immediate surroundings, vehicles stopping in the immediate area, or suspicious persons that show an interest in what you are doing.
7. If a citation is to be issued, the same procedures should be followed as for a single officer stop.
8. To re-approach the violator vehicle, the contact officer should first make the cover officer aware that he or she is going to do so.
9. When the violator is to be released, the passenger officer should cover the driver officer as they return to the patrol vehicle, backing slowly, keeping the occupant(s) in view.
10. If possible, allow the violator to drive away first, keeping the occupant(s) under observation until they have pulled well away. Both officers should remain ready to exit the vehicle if any of the occupants exit their vehicle or the situation dictates.

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Vehicle Stops – High Risk

Officers must be able to recognize situations involving high levels of perceived risk in order to apply appropriate tactical actions to protect their own safety during a vehicle pullover.

High-risk pullovers are conducted in any situation where patrol officers perceive a greater level of risk. Such perceptions may be based on the officer's observations; information received through communications with dispatch, other officers, or other reliable means.

High-risk pullovers are generally made when patrol officers have:

- Reason to believe that one or more of the occupants of the target vehicle may:
 - be armed,
 - represent a serious threat to the officer, or
 - has committed a felony.
- An expectation that the pullover could result in an arrest.

Because of the elevated level of potential danger along with the unpredictable responses of vehicle occupants associated with high-risk vehicle pullovers, patrol officers can encounter a multitude of different personal emotions or reactions. It is normal for patrol officers to experience excitement, fear, anger, confusion, impatience, and even complacency.

In order to prepare for such responses and prevent them from compromising officer safety, officers can:

- Discuss hypothetical situations with their partners ahead of time,
- Have a plan of action prior to initiating the vehicle pullover,
- Obtain appropriate ongoing training in advance to maintain skill levels,
- Work as a team,
- Maintain communication with dispatch and other involved officers,
- Move slowly and methodically,
- Rely on known tactics and procedures while also remaining flexible enough to adapt or improvise if necessary, and
- Exercise emotional restraint and self-control.

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It is the general responsibility of any **cover officers** called to assist the primary officer at the scene of a high-risk vehicle pullover to:

- Protect the primary officer who is conducting the business of the pullover,
- Place their own patrol vehicles in a proper position to avoid silhouetting other officers with the vehicle's headlights or other lighting equipment,
- Take and maintain proper positions of cover and concealment,
- Maintain their firearms at the ready, and
- Maintain visual contact with the vehicle occupant(s) at all times.

In order to ensure officer safety and help ensure an appropriate outcome, the primary officers and cover officers must effectively communicate with one another. Appropriate communication involves:

- Advising the primary officer of any critical occurrences or safety issues, (e.g., movement within the target vehicle, someone approaching outside the primary officer's field of vision, etc.)
- Avoid inappropriate interruptions, and
- Avoid giving directions which conflict with those given by the primary officer. (Only one person, usually the primary officer, gives the commands unless a specific situation calls for another officer to issue a command.)

Tactical Considerations for High-Risk Vehicle Stops:

No arrest is so important that the patrol officers involved should expose themselves to needless danger. In order to meet the safety challenges inherent to the situation, patrol officers must employ tactically sound procedures when effecting any high-risk vehicle pullover.

It is vital that the primary officer initiating any high-risk vehicle pullover maintain communication with dispatch and any assisting or backup officers involved in the situation.

Such communication should include the:

- Primary officer's location and direction of travel,
- The safest approach to the scene
- Possible traffic diversions or road closures,
- License number and a description of the target vehicle,
- Number and description of the target vehicle's occupant(s),
- The existence of any known or suspected weapons within the vehicle, and
- Any additional information regarding the offense(s) or the suspect(s).

The following information is set forth to assist officers in safely controlling vehicle stops known to contain dangerous subjects, and controlling situations that escalate after a vehicle has been stopped for a routine traffic violation.

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Definition of a High-Risk Car Stop:

The stopping of a vehicle when officers have advance knowledge, or reasonable cause to believe that the vehicle contains a felony suspect, a suspect with weapons or a subject who poses a threat. The stop may be based on the officer's personal observation, knowledge of an outstanding felony want, information received by police radio, or other reasonably reliable means. Use of this procedure requires more than mere suspicion.

Procedure for Making High-Risk Car Stop:

If a wanted vehicle, suspect or dangerous subject is sighted; the following procedures should be implemented:

The unit (hereinafter referred to as the primary unit) initially observing the vehicle or subject shall notify Communications immediately, supplying the following information:

1. License Number, location, want the direction of travel, speed, number of occupants, description of the vehicle, etc.
2. Request that the radio dispatcher notify the patrol sergeant.

The primary unit should follow and observe at a discreet distance and formulate a plan of action that should include:

1. The number of backup units that will be needed.
2. An advantageous location to make the stop once sufficient backup units are in position.
3. The positioning of the backup units (including units to block traffic).
4. Contingency responses to unforeseen action, (flight, evasive action, etc.) by the suspect(s).

The primary unit will advise Communications and the other affected units of the plan of action. Consider car-to-car transmissions and frequency restrictions. The primary unit will take full command of the situation when the stop is made. Additional officers will assist until the situation stabilizes.

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Apprehension Tactics – Single Officer Unit:

A single officer should not intentionally make a high-risk stop. It is expected that a single officer will follow the suspect until assistance arrives and the above planning can be implemented.

If an officer is in a remote area, or find that help is not available, he/she should maintain surveillance and keep Communications informed until assistance arrives. If the subject does stop, officers should avoid confrontation, if possible, pending arrival of assistance.

Should circumstances force an officer to handle the stop alone, the below procedure is suggested:

1. Notify Communications that the stop is unavoidable and direct units to fill (Code 2 or Code 3). Provide an exact location for the responding units.
2. During darkness, maximum use of the headlights and spotlights should be made. This will make it more difficult for the suspect(s) to see towards the patrol car and will illuminate the scene, affording some advantage.
3. If feasible, park the patrol vehicle 15-20' to the rear of the suspect vehicle and slightly offset to the left.
4. Roll the driver's window down and unlock the passenger door and then immediately take cover behind the door.
5. Display the weapon in the "ready" position.
6. If possible, use the public address system to give the commands to the occupant(s). Use terse, audible and understandable commands.
7. Preface the stop with a clear command statement. Example: "You in the blue Chevy, you are suspects in a felony and are considered armed and dangerous. If any sudden movements are made within the vehicle, you may be shot."
8. Order the driver and all occupants to remain in the vehicle, face the front, and to place their hands in a position where they can be seen (fingers interlaced and behind head or on the windshield).
9. Be prepared. Anticipate the unexpected. Don't shoot unless necessary and justified. Don't chase a single running suspect and leave the others at the scene of the stop. Maintain control of emotions and actions, as well as the actions of the suspect(s).
10. While remaining behind the door of your patrol vehicle, order the driver to roll down and remove the keys from the ignition with their left hand. Have the driver drop the keys out the window.
11. Keep all suspects in the vehicle until assistance arrives.
12. When backup units arrive, employ applicable procedures set forth for a two-officer unit.

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Apprehension Tactics – Two Officer Unit:

Although a two-officer unit can effectively control most high-risk apprehensions, it is not intended that a two-officer unit attempt high-risk stops. The superiority of manpower acting in conjunction with an established plan cannot be overemphasized. Two two-officer units, or one two-officer unit and one single-officer unit, or three single-officer units are considered a minimum.

The two-officer unit should follow the same Communication notification, and surveillance described above for a single officer unit. If circumstances beyond the control of the officers force them to handle the stop, they should also pre-plan the stop.

1. The passenger officer should take command of the radio. Normally the driver officer takes command of the stop. The unit's last radio transmission should be the location, including the direction of travel, the nearest cross street, and distance from the cross street.
2. The positioning of the patrol vehicle will be the same as that for a one-officer stop. The officer on the right (passenger) is usually armed with the AR-15 rifle.

The following procedure will be the same for both the one officer and two-officer units. With all the needed fill units in position, the driver officer of the primary unit begins the removal of the suspects as follows:

1. The driver places both hands out through the open window with his/her palms facing back.
2. The driver opens the door using the outside door handle and pushes it open with his/her left foot while still seated within the vehicle.
3. The driver steps out of the vehicle keeping his/her hands stretched high over his head and faced forward. He/she then kicks the car door closed to contain additional suspects.
4. With hands held high, the driver turns 360 degrees in order to inspect his/her waistband area visually.
5. The driver will interlace his/her fingers behind his/her head and walks backward, then to the right, then back again, until he/she reaches the position just in front of the headlights of the patrol units.
6. The driver kneels, crosses his/her ankles and sits on them.
7. At this point, the areas of responsibility for the officers are critical. The officer with the shotgun is responsible for covering the suspect vehicle. The driver officer of the fill unit covers the now kneeling suspect.
8. The driver officer of the primary unit goes behind their patrol vehicle and takes cover position behind the passenger officer. This officer orders the suspect to place his/her hands behind him keeping them away from his/her body with the palms facing out.
9. The driver officer then holsters and secures his/her weapon and places handcuffs in a ready position. Then utilizing the driver officer of the fill unit as a cover officer and keeping a low profile, he/she quickly handcuffs the suspect and

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searches the area of the back waistband. The officer then brings the suspect back and conducts a thorough search of the suspect and attempts to gather intelligence on the remaining suspects. Each suspect is brought out in the same manner.

Back-Up Officer Responsibility:

If the primary units have already stopped the vehicle, backup officers shall not roll into the scene so quickly as to place themselves in jeopardy on the final approach. They should determine that the primary unit is not under fire before committing themselves.

Once the stop is initiated, all other units will remain off the radio except for the primary unit. Other units will have to monitor for direction from the primary unit. Upon 10-97 at the location, additional units should be canceled if the situation is Code 4.

The parking position of the backup units will be affected by the condition of the roadway and terrain in which the stop will be made. Some degree of modification will, therefore, be required in some instances. The rear position is the preferred position for backup units. Back-up units using this position should be positioned behind and close to the primary unit.

This position has the advantage of less interference from passing traffic and can be used almost anywhere. The major disadvantage is having only one vehicle close enough to the suspect vehicle that can be used for cover.

A “rear position” backup unit should extinguish headlights to the front so as to minimize any silhouette, leaving only parking lights on. When officers from the primary unit move forward, the rear position back-up officers move forward to assume the vacant position(s) left at the primary unit. A single officer, rear position backup unit, assisting a single officer primary unit moves forward to make it a two-officer primary unit.

Normally, backup officers should not approach the suspects or leave the protection of their vehicles without the direction and concurrence from the officer in command. Officers should stay in a low silhouette protected position behind the patrol vehicle, or it's opened doors until directed otherwise.

When possible, vehicles and/or officers approaching from other directions should be directed by the primary officer to positions of advantage as necessary. This will reduce the chance of officers being caught in a crossfire or will prevent officers from being blinded by police vehicles at night.

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Vehicle Searches:

The primary purpose of conducting any type of vehicle search is to locate and seize any:

- Weapons,
- Contraband, or
- Evidence associated with criminal activity that may be located within the vehicle.

Any physical search of a vehicle must be lawful. The type and extent of a physical search of a vehicle during a vehicle pullover is determined by the circumstances of the pullover along with a number of additional factors. If the driver and/or occupants exit the vehicle voluntarily, the officer may legally enter the target vehicle to retrieve registration papers. While inside the vehicle, the officer may visually scan the area and seize any weapons, contraband, etc., that is in the officer's plain view.

Patrol officers who are conducting a vehicle search should be aware of specific officer safety hazards that may be associated with the search. Possible safety hazards may include, but not be limited to:

- Dangerous weapons, (e.g., edged weapons, loaded firearms, etc.)
- Biological hazards, (e.g., hypodermic needles, etc.)
- Chemicals, (e.g., dangerous drugs such as PCP, drug lab materials, etc.)
- Booby traps, (e.g., explosives) or
- Animals.

Vehicle searches should be conducted in a systematic manner. In order to be effective, each vehicle search must be thorough, (within the legal scope of the search).

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PHASE II MATERIAL

The following section contains material related to the second phase of the Field Training Program.

Person Searches

Person search techniques have been designed to provide peace officers with a margin of safety while giving them an advantage over the suspect. Person searches usually are done as part of a detention or arrest procedure.

Technically, plain view (visual) searches are not searches. They do not require **reasonable suspicion** or **probable cause**. A visual search is part of an officer's general awareness, one of the basic principles of weaponless defense.

As peace officers approach a suspect, they should be aware of, as a minimum, the:

- Suspect's clothing.
- Location of the suspect's hands.
- Proximity of the suspect's obvious or potential weapons.

A **patdown/frisk** person search is a search of a legally detained person to ensure the safety of the officer from an unexpected assault. Officers exercise the least amount of control over the suspect during a patdown/frisk than during other types and degrees of person searches.

To lawfully conduct a patdown/frisk, officers must have:

- Lawfully detained the suspect, and
- Have articulable facts which support a reasonable suspicion that the suspect may be armed or dangerous.

The scope of a patdown/frisk is limited to searching:

- For *weapons only*, and
- The suspect's outer clothing.

During the search, once the searching officer realizes or decides an item is not a weapon, the officer must move on with the search.

A **consent search** is a search conducted by peace officers with the *expressed or implied consent* of the person to be searched. By consenting, the suspect has temporarily relinquished any expectation of privacy over the area to be searched.

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There are two conditions that are required for an officer to conduct a consent search.

1. The officer must have the clear, voluntary, and unequivocal consent of the person to be searched.
 - *Expressed consent* is given orally or in writing.
 - *Implied consent* may be manifested by signs, actions, or gestures.
2. The person to be searched must have the actual or apparent authority to consent to the search.

The scope of a consent search is limited to those areas specifically consented to by the suspect (e.g., pockets, handbags, etc.).

A **search incident to an arrest** is a person search that takes place at or near the time of a lawful arrest. This type and degree of search permits officers to search for and seize weapons or crime-related evidence which the suspect might otherwise use or destroy.

The requirements of a lawful person search incident to arrest include the following.

- The search must be pursuant to a custodial arrest.
- The arrest must be lawful.
- The search must be a part of the arrest procedure.

The scope of a search incident to arrest includes any area within the arrestee's immediate control. This may include:

- Full searches of an arrestee's person.
- Containers on the arrestee's person, regardless of the kind of crime the person is being arrested for.
- The nearby physical area from which the arrestee could grab a weapon, or conceal evidence.

Elements of an Effective Person Search:

Conducting a person search properly, efficiently, and safely is one of the most important steps in a detention or arrest procedure. There are a number of techniques officers can choose from with varying levels of officer control over the suspect. No matter what technique is used, though, there are issues and principles common to all.

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Every search carries an element of danger both to the officer, as well as the potential for an escape by the suspect. An officer's ability to apply the three principles of weaponless defense is critical. They are:

- Awareness
- Balance
- Control

An officer's first goal when conducting a person search is to *maximize his or her own personal safety*. By following a systematic approach and process while conducting a person search, officers are less likely to overlook a potentially dangerous weapon.

A systematic search should include the most likely areas where a weapon might be hidden. This includes but is not limited to the suspect's:

- Front waistband,
- Upper body (including the chest, front pockets, armpits, sleeves, and sides),
- Back (including the rear waistband and buttocks area, and
- Lower body (including the legs and ankles).

Introduction to Restraint Devices:

Restraint devices, such as handcuffs, are safety devices for both the officer and prisoner. They may limit a suspect's movement and restrict actions, but they do not provide total control.

Officers are responsible for their prisoners at all times while in custody. All restraint devices are *temporary* restraining devices used to limit a prisoner's actions. They do not totally immobilize a suspect.

There are a variety of devices that officers can use to restrain suspects temporarily. Any restraint device used by officers must be used only according to our department policies.

Although this chapter discusses the most widely used control device, handcuffs, there may be a number of other devices available to officers.

The following list identifies some types of restraining devices.

- Handcuffs
- Plastic flex cuffs
- Leg restraint devices
- Full body restraints

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Handcuffing

The most common restraint device available to officers is their set of handcuffs. In order to maximize the effectiveness of a type of handcuffs, officers must be knowledgeable and skilled in their use.

Double locking reduces the possibility of inflicting injury from handcuffs tightening further on the prisoner's wrists. It also reduces the possibility of the suspect picking or slipping the locking mechanism.

Care must be taken when removing handcuffs from a prisoner or exchanging handcuffs on the prisoner to ensure that the officer maintains control of the prisoner at all times.

Handcuffs are merely *temporary* restraining devices and do not totally immobilize a prisoner. Just because a suspect is handcuffed, does not mean that officers can relinquish their responsibility to maintain constant control and observation of a prisoner.

There are several acceptable ways of handcuffing suspects that will diminish the possibility of injury or death to officers. The FTO will show the trainee several different handcuffing techniques that incorporate proper officer safety concepts. The trainee should also be shown how to place and remove "flex-cuffs" from a suspect properly. Special emphasis will be placed on the following:

- Maintaining constant control of subject and handcuffs.
- Proper positioning of subject's hands, key outlets, double-locking device, and checking for tightness.
- Acting as a cover officer during the handcuffing of a subject.

Ideally, a suspect's hands should (when handcuffed) be:

- Behind the suspect's back
- Palms facing outward

An officer should not let down his/her guard once a suspect has been handcuffed. There have been many documented incidents of peace officers throughout the United States being injured or killed by a suspect that was either in the process of being handcuffed or handcuffed and in the process of being taken to the jail.

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Peace Officer Responsibilities in a Custodial Situation:

In order to carry out the judicial process effectively and safely, officers must have a thorough understanding of their responsibilities and liabilities for the care, custody, and safety of prisoners along with ensuring the constitutional and statutory rights of prisoners.

Officers who have custody of arrested persons are lawfully responsible for the care and safekeeping of those individuals.

Custody refers to the immediate care or charge of an arrested person. An **arrest** is the taking of a person into custody, in a case and manner authorized by law. From the moment of a lawful arrest through the formal process of incarceration into a detention facility, the arrested person remains in the custody of peace officers.

There are numerous terms which refer to peace officers who are responsible for the care and custody of arrested persons. At the time of the initial arrest, the *arresting officer* is responsible for the care and custody of an arrested person. The arresting officer may or may not also be the *transporting officer*, responsible for transporting the arrested person to a local detention facility.

As the arrested person moves through the formal process of incarceration into a local detention facility, the care, and custody of that person is the responsibility of custodial personnel, including the *intake officers* or receiving officers.

All peace officers have certain general responsibilities in a custodial situation.

These general responsibilities include:

- Assuring that there is a lawful basis for custody,
- Protecting the constitutional and statutory rights of the arrested person while that person is in the officer's charge,
- Maintaining the care, custody, and safety of the arrested person until that person is processed into a local detention facility,
- Maintaining officer and public safety, and
- Handling those responsibilities necessary to facilitate the processing of the arrested person into a detention facility.

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Peace officers who have responsibility for arrested persons are liable for the safekeeping and standard of care of those persons. Failure to uphold the expected level of care under the provisions of state and federal laws or the **callous disregard** for an arrested person's safety will subject peace officers to:

- Departmental discipline (including termination),
- State prosecution for violation of penal code statutes,
- Federal prosecution for violation of federal civil rights law, and/or
- Civil lawsuits which may include punitive damages levied directly against individual officers.

Constitutional and Statutory Rights and Protections:

Peace officers are bound to protect the rights of all persons as guaranteed in the Amendments to the Constitution referred to as the Bill of Rights. Although arrested persons no longer have the right to the freedom of movement, they do retain certain other rights and protections under the law.

The first 10 amendments to the Constitution, commonly referred to as the **Bill of Rights**, were written to ensure that certain rights of people cannot be infringed upon by the government.

Although a person who has been lawfully arrested and is under the custody of peace officers relinquishes the right to freedom of movement, certain other rights remain, including:

- First Amendment (Freedom of Religion, Freedom of Speech)
- Sixth Amendment (Right to a Speedy Trial, Right to Legal Counsel)
- Eighth Amendment (Protection From Cruel and Unusual Punishment)
- Fourteenth Amendment (Right of Due Process of Law, Right to Equal Protection)

Assault by a Public Officer:

Peace officers are given a special position of trust by their authority to use force on others. When dealing with arrested persons under their care and custody, it is particularly important that officers use only an appropriate and necessary amount of force. Excessive force is punishable by law.

The crime of assault by a public officer is covered under *Penal Code Section 149*.

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In order for the crime of assault by a public officer to be complete, the necessary crime elements include:

- Every public officer who,
- Under color of authority,
- Without lawful necessity,
- Assaults or beats any person

The crime of assault by a public officer is classified as a felony.

An **assault** is an unlawful attempt, coupled with a present ability to commit a violent injury on another person.

Present ability is the present capability of the perpetrator to carry out the intended injury.

Violent injury, in the context of assault, means any act of trying to strike, kick, or otherwise harm someone; it does not require violence or actual injury. (e.g., spitting, throwing water, verbal abuse, etc.)

Under color of authority means a misuse of power. Officers acting under color of authority are using their positions as peace officers to commit acts that are not authorized.

In order for the crime of assault by a public officer to be complete, the act committed by the officer must be unlawful. An officer would not be liable for any act that is considered lawfully necessary. However, if an officer acts in a manner that goes beyond what would be considered lawfully necessary, that officer has committed a crime.

Cruel and Unusual Punishment:

Law enforcement officers are specifically prohibited from applying cruel or unusual punishment to a person in custody. This protection applies to prisoners in jails, reformatories, state hospitals, or any other state, county, or city institutions.

The crime of applying cruel or unusual punishment to a person in custody is covered under *Penal Code Section 673*.

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In order for the crime of applying cruel and unusual punishment to be complete, the necessary crime elements include:

- Any person who,
- In a described location (i.e., a jail),
- Inflicts cruel, corporal, or unusual punishment (including certain specified acts, devices or lack of care)
- Which would injure or impair the health
- Upon a prisoner, inmate, or person confined.

The crime of applying cruel and unusual punishment is classified as a misdemeanor.

Cruel and unusual punishment is generally considered any cruel and degrading punishment not known to the common law; also any punishment so is proportionate to the offense as to shock the moral sense of the community. Also, courts have established limits on what is acceptable punishment, thereby defining cruel and unusual.

Inhumane or Oppressive Treatment:

Prisoners have the same legal rights as other citizens to humane treatment. Peace officers are prohibited from using inhumane or oppressive treatment against prisoners in their custody.

The crime of inhumane or oppressive treatment of a prisoner in custody is covered under *Penal Code Section 147*.

In order for the crime of inhumane or oppressive treatment by a peace officer to be complete, the necessary crime elements include:

- Any officer who
- *Willfully*
- Inhumanely treats or oppresses
- Any prisoner under his/her care or custody.

There are many ways to subject a prisoner to inhumane or oppressive treatment. Such treatment might include any of the following:

- Withholding basic necessities such as food, water, or medical care,
- Withholding privileges, without reason, and
- Taunting or other verbal abuse.

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Violation of a Prisoner's Civil Rights:

In addition to the statutes affording prisoners certain rights and protections, California has legislation that protects all persons' constitutional rights from abuse by the government. Peace officers represent and symbolize the law. They have a special legal and professional responsibility to ensure that the civil rights of all citizens, including prisoners, are protected.

The crime of depriving a person of their civil rights is covered under *Penal Code Section 422.6(a)*.

Penal Code Section 422.6(a) makes it a crime for:

- Any person,
- *Whether or not acting under color of law,*
- Who shall by force or threat of force
- Willfully deprive any person of any legal right
- Based on that person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation,
- Or because the person perceives that the other person has one or more of those characteristics.

Color of law means an action carried out as if under the authority of law, but that is actually done in violation of the law. This statute is broader than federal civil rights law. It does not limit the violation of civil rights to government agents, such as peace officers or magistrates. Anyone who violates another's civil rights can be held liable.

The penalty for violation of this statute is:

- Imprisonment in a county jail not to exceed one year, or
- A fine not exceeding \$5,000, or
- Both imprisonment and fine.

There are several U.S. statutes that protect a person's civil rights. Peace officers are subject to these laws and can be prosecuted if they violate these federal statutes.

Peace officers who are found guilty of violating the civil rights of prisoners may be subject to:

- Departmental discipline, up to and including termination,
- State prosecution for violation of penal code statutes,
- Federal prosecution for violation of federal civil rights law, and/or
- Civil lawsuits which may include punitive damages levied directly against individual officers.

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Transportation of Prisoners

Officer Safety and Prisoner Transportation:

The time between a suspect arrest and incarceration is critical. A prisoner facing the loss of freedom can be extremely dangerous. If peace officers relax their vigilance during the transportation of a prisoner, that prisoner could become a safety threat to the officers or attempt to escape.

The unpredictable nature of the prisoner can create a serious threat to officers while removing a prisoner from the scene of the arrest. The fact that prisoners may submit peacefully at the time of their arrest will not guarantee that the same prisoners will not resort to violence or trickery to escape during transportation.

When transporting a prisoner, officers are responsible for:

- The safety of themselves, fellow officers, and others in the immediate area.
- Minimizing any opportunity the prisoner may have for escape.
- The welfare and safety of the prisoner.
- Obtaining medical evaluation for the prisoner when needed.

Certain elements must always be addressed to assure the safe and effective transportation of a prisoner.

- Search of the prisoner
- Search of the vehicle area
- Proper procedures for positioning the prisoner in the vehicle
- Use of safety belts
- Observation of the prisoner while transporting

Before transporting any prisoner, the officer should search the prisoner for possible weapons. Confiscate any articles that can potentially be used as a weapon or is considered contraband. Each officer should *personally* search each prisoner that will be transported in that officer's vehicle. Do not depend on another officer to search a prisoner. Once the prisoner is in the vehicle, the prisoner is the responsibility of the transporting officer.

Peace officers should always search the area where the prisoner is seated *before and after* transportation. This is key to officer safety. Tools, flares, flashlight, pens, pencils, or a weapon hidden by a previous prisoner could be found and used by a prisoner against an officer or to cause self-inflicted harm. Although the interior of a transport car is always searched after delivering a prisoner, it should be searched again before transporting another prisoner.

Any prisoner, whether male, female, adult or juvenile, should be properly restrained prior to transporting. Normally, prisoners should be handcuffed with their hands behind their

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backs, unless the officer is limited by special circumstances (e.g., prisoner's arm in a cast, obese prisoner).

Positioning of the Prisoner in a Vehicle:

To ensure the safety of both officers and prisoners, and to always maintain control, prisoners should always be positioned properly within the vehicle for transporting.

Certain procedures always apply when positioning prisoners for transportation.

- Prisoners should be placed in and removed from a vehicle in a way that maintains control and advantage over the prisoner.
- A second officer, if available, should act as a cover officer while the prisoner is being placed in the vehicle.

Prisoners should be seated in an upright position and wear seat belts during transportation. Seat belts help restrain the prisoner and increase the safety of the prisoner in case of an accident.

Officers must observe prisoners closely while transporting them. When transporting a prisoner:

- Assume that any prisoner is an escape risk and a threat to officer safety.
- If available, have a backup or cover officer in the vehicle as well.

Prisoners should be positioned in the vehicle to:

- Ensure safety and welfare of the officers and prisoners.
- Allow for clear observation of the prisoners.

Booking Prisoners:

Securing Weapons in Detention Facilities:

All persons, including officers, are prohibited from bringing weapons into a local detention facility, except under certain specified conditions, and as authorized by facility authorities, this includes firearms, baton and O/C spray.

With limited exceptions, officers are included in the prohibition against bringing weapons into a detention facility. Because of this, officers are required to secure their weapons outside the facility before entering. In most cases, officers are required to secure duty firearms in specially designed firearms lockers located at or near the entrance of the facility. Besides duty firearms, officers are also required to secure other deadly weapons (backup weapons, buck knives, etc.) Some facilities also prohibit ammunition, chemical agent devices, batons, and pepper spray.

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Medical Care and Prescreening of Prisoners:

Officers are responsible not only for the security of prisoners but also the well-being of all prisoners in their care. This includes seeking or providing medical care when necessary.

Certain medical conditions require specialized care or treatment beyond the capabilities of a local detention facility. Detention facilities may refuse to accept arrested persons for incarceration under such conditions. The arresting or transporting officer may be required to transport the arrested person to an agency-approved medical facility. For this reason, officers should become familiar with the situations or conditions where it would be advisable to transport the arrested person to an agency approved medical facility first. Once that person is cleared by medical personnel, and a medical release form has been obtained, the arrested person can be taken to the local detention facility.

Conditions requiring urgent medical care include but are not limited to:

- Diabetic shock,
- Head injury,
- Severe bleeding,
- Drug overdose,
- Unresponsiveness or unconsciousness, or
- Chest pain.

Officers must always remember that they have a responsibility to ensure that sick or injured persons receive appropriate medical attention. It may be difficult for an arresting or transporting officer to determine if an arrested person's complaint of illness or injury is, in fact, bona fide. A complaint of illness or injury may be used by an arrested person as a means to obtain greater escape options or special attention/treatment.

In these situations, officers must weigh issues of:

- Officer safety,
- Reasonableness of complaint/request,
- Basic common sense, and
- The individual circumstances.

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The arresting officer is responsible for informing custodial personnel and documenting any observable, known, or recognized signs of:

- Injury,
- Illness,
- Possible drug overdose,
- Mental incapacitation,
- Suicide risk, or
- Whether the person requires medication.

Custodial personnel should also be informed if the arrested person was exposed to OC spray, tasers, or if a carotid restraint or baton was used during the arrest process.

Arresting/custodial personnel are required to complete a prescreening medical questionnaire for each arrested person brought to a local detention facility. The purpose of performing a prescreening is to determine if the arrested person has any medical problems or conditions that need special care or attention.

Officer Responsibilities During Intake:

Intake is the process of transferring the care and custody of an arrested person from the arresting or transporting officer to the local detention facility.

Along with the general responsibilities peace officers have for the care and custody of arrested persons, custodial personnel are responsible for:

- Facility security including the protection of:
 - officers,
 - members of the general public, and
 - prisoners, and
- Providing adequate care for each prisoner including:
 - shelter,
 - meals,
 - general care, and
 - safety.

Upon entering a local detention facility, an intake officer or the arresting officer must take possession of the arrested person's personal property.

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Seized property can include, but is not limited to:

- Jewelry,
- Wallet or purse,
- Money,
- Credit cards,
- Personal documents (e.g., driver license).

Weapons, whether lawfully or unlawfully possessed by the arrested person, are seized at the time of arrest before the person is transported to a local detention facility. The officer who takes possession of the personal property must immediately provide the arrested person with a receipt for the property. (*Penal Code Section 4003*) Receipts are not issued for evidence or contraband.

All property taken from a prisoner must be noted and described on intake documents as “property taken.” Most officers do not have the expertise to know whether an item is of value or not. What looks like diamonds could be glass. To prevent any question of the value of a piece of property, each item should be described in very straightforward, general terms. The condition of the item along with any brand names should be included with the description.

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Physical Searches of Prisoners:

Searches are conducted on arrested persons in order to prevent weapons or contraband items from entering the facility. Such items would pose serious threats to the safety of officers and to the inmates.

Subjecting an inmate to arbitrary or unnecessary strip or body cavity searches is a violation of that person's state and federal constitutional protections against unreasonable searches and seizures. For that reason, strict policies and statutes have been written establishing the specific conditions under which searches can be conducted.

There are four types of searches that may be conducted in a local detention facility:

- Physical Searches
- Strip Searches
- Visual Body Cavity Searches
- Physical Body Cavity Searches

No person arrested for a misdemeanor or infraction offense can be subjected to a physical body cavity search unless a search warrant has been issued authorizing the search. All physical body cavity searches must be conducted by medical personnel but may be monitored by an officer.

Because of the potential violation of an inmate's constitutional rights, all strip and body cavity searches performed as a part of the intake process must be well documented and authorized by the watch commander. A copy of the written authorization along with identification of who authorized the strip or body cavity search must be retained in the agency's records. In the case of a physical body cavity search, a copy of the search warrants must also be retained. If requested, a copy of the written authorization for the strip or body cavity search must also be provided to the person being searched or that person's representative.

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Persons with Disabilities

Protecting the Rights of Persons with Disabilities:

Officers must understand the laws protecting the rights of persons with disabilities in order to serve all individuals to whom the laws apply. People with disabilities are not conditions or diseases. They are human beings with the same constitutional rights and protections as everyone else.

In order to understand the laws pertaining to persons with disabilities, officers must first understand what the term **disability** means. A person is disabled if that person:

- Has either a *physical or mental impairment* that substantially limits that person from actively taking part in one or more *major life activity*,
- Has a record of a physical or mental impairment, or
- Is regarded as having a physical or mental impairment.

A **physical impairment** is a functional limitation that interferes with a person's abilities. A physical impairment can include, but not be limited to:

- Physical disabilities such as:
 - hearing impairment,
 - visual impairment,
 - neurological-based disorders (e.g., Alzheimer's disease, brain or spinal cord injury, etc.), or
 - other physical impairments. (e.g., amputation, etc.)
- Developmental disabilities such as:
 - mental retardation,
 - cerebral palsy,
 - epilepsy,
 - autism, or
 - other disabling conditions. (e.g., Down's syndrome, Tourette's syndrome, etc.)

A **mental impairment** refers to a group of disorders that can cause disturbances in thinking, feeling, or relating to others. They often result in an inability to cope with the ordinary demands of life. A mental impairment can include, but not be limited to:

- Thought disorders such as schizophrenia,
- Mood disorders such as:
 - depression,
 - mania, or
 - bipolar disorder, or
- Postpartum psychosis.

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Americans with Disabilities Act:

The Americans with Disabilities Act (42 US Code 2101 et seq.) was signed in 1990 and written to provide a clear and comprehensive mandate for the elimination of discrimination against individuals with mental and physical impairments.

“No qualified individual with a disability shall, on the basis of the disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by the public entity.”

Lanterman Developmental Disabilities Services Act:

The Lanterman Developmental Disabilities Services Act was written to establish the State of California’s responsibility for and the coordination of services for persons with developmental disabilities. The goal of the writers of this act was to maximize, to the extent feasible, the services available throughout the state and to prevent the dislocation of persons with developmental disabilities from their home communities.

A developmental disability means a disability which:

- Originates before an individual attains age 18,
- Continues, or can be expected to continue, indefinitely, and
- Constitutes a substantial disability for that individual. (*Welfare and Institutions Code Section 4512(a)*)

Included under the Lanterman Developmental Disabilities Services Act are:

- Mental retardation,
- Cerebral palsy,
- Epilepsy,
- Autism, and
- Other related disabling conditions.

Persons with developmental disabilities have the same legal rights and responsibilities guaranteed to all other individuals by the state and federal Constitutions as well as the laws of the State of California. Although the Lanterman Developmental Disabilities Services Act is not directed specifically to law enforcement, it does impact on law enforcement agency and department policies and guidelines. One of the rights noted in the Lanterman Developmental Disabilities Services Act is the right to be free from harm, *including unnecessary physical restraint.*

The amount of physical restraint that is deemed necessary when restraining or taking a person with a developmental disability into custody may be different from what is required for a person without a disability.

Lanterman-Petris-Short Act (*Welfare and Institutions Code Section 5150*)

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The Lanterman-Petris-Short Act (LPS) was established in 1968 with the intent of reforming commitment laws pertaining to mental health treatment. The effort of the Legislature was to balance the rights of the community with the rights of the individual to freedom and due process under the law. The laws related to LPS are noted in the California Welfare and Institutions Code, beginning with *Welfare and Institutions Code Section 5150*.

Welfare and Institutions Code Section 5150 states that:

- Any persons who,
- As a result of a mental disorder,
- Are:
 - *a danger to others, or*
 - *a danger to themselves, or*
 - *gravely disabled,*
- May, upon probable cause,
- Be taken, or caused to be taken,
- By a peace officer or other designated person
- To a designated facility
- For 72 hour treatment and evaluation.

To qualify for detention under *Welfare and Institutions Code Section 5150*, the person's actions must be the result of a mental disorder and not merely the result of a lifestyle or attitude choice, including substance induced intoxication.

The concept of *danger to others* often involves verbalizations or actions that are easily interpreted as aggressive and usually involve poor impulse control. Indicators that might lead an officer to believe that a person may be a danger to others include, but are not limited to the individual's:

- Use of words or actions that indicate the intent to cause bodily harm to another person.
- Expressions of thoughts or intentions which are specific as to the particular person to be harmed.
- Appearance of being agitated, angry or explosive (even when not focused on a particular person).
- Engagement in or intent to engage in acts or behavior of such an irrational, impulsive or reckless nature as to put others directly in danger of harm. (e.g., the destruction of property or misuse of a vehicle)
- Acts or words regarding an intent to cause harm to another person being based on, or caused by the individual's mental state which indicated the need for psychiatric evaluation and treatment.

Danger to self typically means the presence of suicidal thoughts, statements, or behaviors. Indicators that might lead an officer to believe that a person may be a danger to self include, but are not limited to the individual's:

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- Words or actions that imply an intent to commit suicide or inflict bodily harm on self.
- Exhibition of gross neglect for personal safety which could lead to that person receiving or being at risk of receiving serious injury.
- Statements or actions implying a specific plan to commit suicide or inflict harm on self.
- Plans and the means available or within that individual's ability to carry out.

Gravely disabled is a condition in which a person, as a result of a mental disorder, is unable to provide for basic personal needs such as food, clothing, or shelter.

It is important that officers recognize that detention and commitment under *Welfare and Institutions Code Section 5150* is a *serious deprivation of personal liberty*.

Detention under *Welfare and Institutions Code Section 5150* can mean the individual:

- May be deprived of contacts with friends and family,
- May be subject to:
 - medical and psychological examination, and/or
 - the administration of medications, and
- Can be held against that person's will for up to 72 hours.

Because of these issues, officers must be aware of the responsibility involved when they evoke *Welfare and Institutions Code Section 5150*. A person cannot be detained under *Welfare and Institutions Code Section 5150* for vague, ambiguous, unspecific, or *potentially* dangerous behavior.

Because deprivation of personal liberty is involved, the courts have established explicit elements for probable cause for *Welfare and Institutions Code Section 5150*.

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To establish probable cause to detain a person pursuant to *Welfare and Institutions Code Section 5150*, an officer must clearly articulate the circumstances under which the person's condition was brought to the officer's attention. The officer must:

- Be able to state known facts,
- That would lead a person of ordinary care and prudence to believe or to entertain a strong suspicion
- That the person detained
- Is a danger to self, or gravely disabled.

By "known facts," the officers must be able to point to specific facts, which if taken together with rational inferences, reasonably warrant the officer's belief or suspicion.

Persons who are detained under *Welfare and Institutions Code Section 5150* are entitled to basic federal and state constitutional rights. *Welfare and Institutions Code Section 5157* requires that prior to transporting the person to a designated facility, officers must give the person the following advisement:

"My name is (officer's name), I am a (type of peace officer) with (employment agency's name). You are not under criminal arrest. I am taking you to (name of the mental health facility) for an examination by mental health professionals. You will be told your rights by the mental health staff."

If the person is detained under *Welfare and Institutions Code Section 5157* at that person's residence, officers must also inform the individual of additional rights.

"You may bring a few personal items with you which I will have to approve. You can make a phone call and/or leave a note to tell your friends and/or family where you have been taken."

Welfare and Institutions Code Section 5150 also states that it is the officer's responsibility to:

- Take reasonable precaution to preserve and safeguard personal property in possession of or on the premises occupied by the person who is being detained, and
- Provide the court with a report describing any property that is under law enforcement protection and its disposition.

Whenever a person who has been detained under *Welfare and Institutions Code Section 5150* is found to own, have possession of, or have control of any firearms or deadly weapons, peace officers will confiscate those weapons. (*Welfare and Institutions Code Section 8102*)

Welfare and Institutions Code Section 5150.2 requires officers who detain individuals under *Welfare and Institutions Code Section 5150* to complete written applications for detention, evaluation, and treatment. A standard application includes:

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- Verification that the detainment advisement was given,
- The name of the designated facility the person is taken to,
- The name and address of the individual who is being detained, and
- Factual circumstances and observations constituting probable cause for the officer to believe that the individual is, in fact, a danger to self, others, or is gravely disabled.

Additional Laws Protecting the Rights of Persons with Disabilities:

Blind persons, visually impaired persons, and any other physically disabled persons have the same right as the able-bodied to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public spaces.

A violation of the rights of an individual under the Americans with Disabilities Act of 1990 also constitutes a violation of *Civil Code Section 54.1*.

- Individuals with disabilities
- Shall be entitled to
- Full and equal access,
- As other members of the general public have,
- To:
 - accommodations,
 - advantages,
 - facilities, and
 - privileges.

Officers who fail to abide by the provisions of the Americans with Disabilities Act and *Civil Code Section 54.1* may be subject to any or all of the following.

- Criminal liability for a violation of civil rights
- Civil liability
- Departmentally-imposed disciplinary action

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Peace Officer Interactions With Persons with Disabilities:

Any type of call for peace officer assistance may potentially involve a person with a disability. In day-to-day contact, officers must not allow stereotypes or prejudices to cloud decisions on enforcement, intervention, or investigation.

Officers or reporting parties can easily misunderstand or misinterpret a disabled person's behavior as being:

- Suspicious,
- Disoriented,
- Hostile,
- Troubling,
- Disturbing, or
- Caused by alcohol or drug abuse.

It is not the role of or within the capacity of officers to attempt to diagnose a person's disability or disorder. Rather, officers only need to recognize cues and other indicators in order to make appropriate decisions regarding intervention strategies.

To the extent possible, responding officers should observe the behaviors exhibited by the person in an effort to determine *what is happening* and *what might be prompting the observed behavior*.

Persons with disabilities are not looking for sympathy, special advantages, or preferential treatment. They expect the same treatment and respect afforded to all persons by peace officers. Officers should take into consideration the following general guidelines when making contact with an individual with a disability:

- Recognize the person first, then the disability.
- Address the person by that person's first name only when extending the same familiarity to others as well.
- Don't patronize or give excessive praise or attention.
- Be consistent.
- When offering assistance, wait until the offer has been accepted.
- Listen to or ask for instructions.
- Respect the person's wishes.
- Do not correct or speak for the person.
- Maintain eye contact.
- Try not to underestimate or overestimate a person's abilities.
- Don't be embarrassed if common expressions are made that seem to relate to the person's disability. (e.g., "Let's roll," "See you later," etc.)

If an officer suspects or concludes that a victim of or witness to a criminal act is a person with a disability, that officer should consider the special needs of the interviewee.

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Unless it is impossible to do so, officers should:

- Use the same calming techniques for a victim who is disabled that they would use with anyone else.
- Be prepared to take more time for the interview.
- Simplify their questions if necessary.
- Give the person as much time as needed to respond to each of their questions.
- Find out the communication needs or mobility aids required by the person.

Persons with disabilities are not relieved from their legal obligations and responsibilities. They are capable of committing serious or violent crimes. Officers should treat a suspect who has a disability with the same caution that they would use with any other suspect regarding judgments about enforcement of the law and personal safety. Although the person may have a disability, that person may still be capable of injuring the officer.

Field Contacts with Persons with Mental Disorders:

Officers must make difficult judgments and decisions about the behaviors and intent of any individual they suspect to be affected by a mental disorder. This requires special considerations to avoid unnecessary violence or civil liability.

Persons affected by mental disorders can be unpredictable and sometimes be violent. Officers should never compromise or jeopardize their own safety or the safety of others when dealing with individuals who display symptoms of a mental disorder.

Not all persons affected by mental disorders are dangerous while some may represent danger only when under certain circumstances or conditions. Some may be capable of going from a state of calm to being extremely agitated very quickly.

There are a number of indicators officers may use to help determine if persons who appear to be affected by a mental disorder are dangerous to themselves or others.

- The availability of any weapons to the person.
- Statements made by the person that suggests that the individual is prepared to commit a violent or dangerous act. These could range from subtle innuendos to direct threats.
- A personal history of prior violent acts under similar or related conditions. Information may come from a previous law enforcement contact or persons familiar with that person.
- Signs of violence at the scene prior to the officer arriving.
- The amount of self-control the person is able to demonstrate. This can include signs of rage, anger, fright or agitation. Signs of lack of control can include an inability to sit or stand still, wide eyes, rambling speech, etc.
- Begging to be left alone or offering frantic assurances that one is fine may also suggest that a person is close to losing control.

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Control of Mentally Ill (Adults and Juveniles):

This topic shall address issues related to stigma, shall be culturally relevant and appropriate, and shall include all of the following:

- How to identify indicators of mental illness, intellectual disability, substance use disorders, neurological disorders, traumatic brain injury, post-traumatic stress disorder, and dementia.
- Autism spectrum disorder
- Genetic disorders, including, but not limited to, Down syndrome.
- Conflict resolution and de-escalation techniques for potentially dangerous situations.
- Alternatives to the use of force when interacting with potentially dangerous persons with mental illness or intellectual disabilities.
- The perspective of individuals or families who have experiences with persons with mental illness, intellectual disability, and substance use disorders
- Involuntary holds
- Community and state resources available to serve persons with mental illness or intellectual disability, and how these resources can be best utilized by law enforcement

The following list identifies appropriate tactical actions officers should be aware of.

Request backup:

- Especially in cases where the individual will be detained for evaluation

Calm the situation:

- When possible, eliminate emergency lights and sirens and disperse any crowd that may have gathered.
- Reduce environmental distractions such as radio or television noise.
- Assume a quiet, non-threatening manner when approaching and conversing with the individual.
- Avoid physical contact if no violence or destructive acts have taken place.
- Take time to assess the situation.

Move slowly:

- Do not excite the person.
- Provide reassurance that officers are there to help.
- Give the person time to calm down.

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Communicate:

- Talk with the individual in an attempt to determine what is bothering that person.
- Relate concern for the person's feelings.
- Allow the person to ventilate those feelings.
- Avoid topics that may agitate the person.
- Guide the conversation toward subjects that will bring the individual back to reality.
- Do not mock or belittle behaviors. (i.e., delusions or hallucinations)

Do not make threats:

- Do not threaten the individual with arrest or in any other manner.
- Threats may create additional fright, stress, or potential aggression.

Be truthful:

- If the individual becomes aware of deception, that person may:
 - withdraw from any contact in distrust,
 - become hypersensitive, or
 - retaliate in anger.

In order to ensure their own safety and the safety of others, officers should move the person to a safer room or area away from potential weapons. (e.g., moving the individual out of a kitchen where numerous utensils are accessible) If the individual resists detention, restraint may be necessary. Officers should be aware that using restraints on a person affected by a mental disorder may aggravate that person's aggression. Even so, officers should take the measures necessary to protect their own safety.

If an officer determines that a person appears to be affected by a mental disorder, there are a number of actions the officer can consider taking. The following table identifies such actions.

Provide urgent medical attention:

- Once an officer has taken control of a situation, that officer must render medical attention or summon medical personnel if required.
- After medical care is rendered, disposition of the individual can be determined

Detain for evaluation and treatment:

- Based on the overall circumstances and the officer's best judgment, the officer may detain the individual under *Welfare and Institutions Code Section 5150* if that person appears to be, or is:
 - a danger to others,
 - a danger to self, or
 - gravely disabled.

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Arrest of individual:

- Arrest if a crime has been committed.
- Officer discretion should be used regarding arrests for minor issues.

Referral for mental health services:

- Individuals and families who may be in need of treatment can be referred to available mental health services.
- Officers should become familiar with the services that are available within the community.

No further action:

- If no urgent medical care is necessary, no crime has been committed, and no referral is needed, the officer may choose to take no further action.

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Confiscation of Deadly Weapons (8102 W&I)

Background:

On occasions, officers take persons into custody pursuant to section 5150 W&I who possess firearms or other deadly weapons. Section 8102 W&I states, "... the firearm or other deadly weapons shall be confiscated by any law enforcement agency or peace officer from a person who has been detained or apprehended for examination for his/her mental condition."

Once an officer confiscates any firearm or other deadly weapon (as defined in Penal Code 21810) from a person who has been detained or apprehended pursuant to 5150 W&I, the weapon will be booked into Property and Evidence. Property and Evidence has 30 days after the person is released without judicial commitment, unless good cause is shown, to initiate a petition in Superior Court for a hearing to determine whether the items should be returned to the person. If these proceedings are not started within the 30 days, the weapons must be returned.

Confiscating Weapons:

Any firearm or deadly weapon confiscated pursuant to section 8102 W&I will be booked in the evidence room in compliance with current departmental policy.

Officers will provide written notice to the person at the time of the detention, using the appropriate departmental form (8102 W&I form), informing him/her of the procedure to be followed for the release of their confiscated weapon(s). Officers will also provide written notice (using the same form) to the medical facility at the time of the commitment, informing them that the person had a firearm or other deadly weapon in his/her possession and that the weapon was confiscated.

Firearms Restraining Order

A firearms restraining order is a court order that prohibits someone from having a gun or ammunition. It can order someone to:

1. Not have a gun or ammunition;
2. Not buy a gun or ammunition; and
3. Turn in any guns and ammunition to the police, sell them to or store them with a licensed gun dealer.

Family members can ask for a firearms restraining order against a close family member if they are afraid the family member may hurt themselves, or another person, with a gun.

Close family members are:

1. Your spouse or domestic partner
2. Your parents, children, siblings, grandparents, grandchildren and their spouses (including stepparents or step-grandparents)
3. Your spouse's parents, children, siblings, grandparents, and grandchildren
4. Any person who regularly lives in your house now, or within the last six months.

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Additionally, the police can seek a Firearms Emergency Protective Order if someone poses an immediate and present danger of causing personal injury to himself/herself, or to another person. Officers will take the person's firearms and ammunition while giving them a copy of the order.

Refer to Penal Code sections 18100 to 18205.

Documentation:

Officers will document each incident where weapons have been confiscated under 8102 W&I in the Incident Report. The serial numbers of all firearms must be entered into the computer systems at the Morgan Hill Police Department Communications. Officers must give the person responsible for the weapons a property receipt which has the information regarding the retrieval of the firearm.

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Basic Principles of Search and Seizure Law

Officers must have a clear understanding of their authority, responsibility, and potential for liability in the area of search and seizure law.

Fourth Amendment Protections:

A fundamental grievance of the early colonists against the English government was the government's willingness to permit searches of unlimited scope without judicial supervision or any demonstration of justification. British officers could search or seize at their discretion -- whenever, wherever, and whomever they chose.

A priority of the authors of the United States Constitution and the California Constitution was to avoid unlimited actions and intrusions by the government and to protect a person's:

- Privacy,
- Liberty, and
- Possession of property.

The Fourth Amendment to the United States Constitution (Article 4 of the Bill of Rights) states:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

Article 1, Section 13, of the California Constitution, states:

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches, shall not be violated, and a warrant may not be issued except on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

The Fourth Amendment does not give individuals an absolute right to privacy; neither does it prohibit all searches. It limits only those searches conducted by the government that are considered *unreasonable* by the courts.

To determine what is reasonable, the courts must look at the totality of circumstances and balance the individual's right to privacy against the government's need to gather evidence and apprehend criminals.

The Fourth Amendment, like the other Amendments in the Bill of Rights, limits the power of *the government* but does not apply to actions by private citizens. If a private individual violates someone else's expectation of privacy, the victim may be able to make a claim in the civil court system.

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To better understand the Fourth Amendment, officers need to understand the following terms.

A **search** occurs when an expectation of privacy that society is prepared to consider reasonable is infringed upon by the government.

A **seizure of property** occurs when there is some meaningful interference with an individual's possessory interest in that property by the government.

A **seizure of a person** occurs when:

- A peace officer physically applies force, or
- A person voluntarily submits to a peace officer's authority.

Probable Cause to Search:

The Fourth Amendment states:

The right of the people to be secure in their person, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue, but upon probable cause...

Probable cause to search an area or object means having enough facts or information to provide a *fair probability*, or a *substantial chance*, that the item sought is located in the place to be searched. Thus, probable cause requires something less than an absolute or even a near certainty, but something more than a mere hunch or suspicion.

Officers must demonstrate that probable cause exists to search a specific place for specific property or contraband which will be used as evidence. Even though the court will consider the totality of the circumstances, to meet the Fourth Amendment requirement, officers must have specific facts which can be articulated in court or in a sworn statement (affidavit).

To establish probable cause to search, officers must be able to articulate how and why they have a *fair probability* to believe:

- A crime has occurred or is about to occur,
- Evidence pertaining to the crime exists, and
- The evidence is at the location they wish to search.

An officer's training and experience may go into the equation for determining probable cause. Facts must be seen and weighed as understood by a reasonable officer with that particular officer's training and experience.

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The Exclusionary Rule:

If a court finds that a search or seizure is not reasonable and that a person's Fourth Amendment rights have been violated by the government, all items seized during the search could be ruled inadmissible or *excluded* as evidence at trial.

Warrant Searches and Seizures:

To search for and seize evidence legally, officers must know the rules and requirements for obtaining and executing a search warrant. Unless justified by an exception (consent, incident to arrest, search condition, or emergency), a search of private property may lawfully be conducted only if authorized by a search warrant. This warrant requirement also applies to commercial property, except any portion open to the general public.

Search, and seizure law originates from the Fourth Amendment of the United States Constitution and Article 1 of the California Constitution.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

A search warrant is:

- An order in writing, in the name of the people,
- Signed by a magistrate,
- Directed to a peace officer,
- Commanding the officer to search for a person or persons, a thing or things, or personal property and,
- In the case of a thing or things or personal property, to bring the same before the magistrate (*Penal Code Section 1523*).

As a general rule, the courts have found searches and seizures to be *reasonable* and therefore *lawful* when authorized by a valid warrant. The burden is on the defendant to prove the illegality of any search executed with a search warrant.

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Probable Cause to Search:

Before they can obtain a search warrant, peace officers must be able to provide a judge with specific facts that meet the Fourth Amendment's requirement of probable cause.

The Fourth Amendment of the U.S. Constitution clearly states:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

In the search warrant context, **probable cause to search** means enough credible information to provide a *fair probability* that the object the peace officers seek will be found at the place they want to search.

It is possible for an activity which might otherwise appear innocent to the general public to amount to probable cause to an officer. An officer's training and experience may go into the equation for determining probable cause. Facts must be seen and weighed as understood by a reasonable officer.

Probable cause may be based on the collective knowledge of all the officers involved in an investigation, and all the inferences which may reasonably be drawn from this information, with that particular officer's training and experience.

Warrantless Searches and Seizures:

Although warrantless searches and seizures are presumptively illegal, when certain conditions are met, officers may lawfully search and seize evidence *without* a search warrant. For evidence to be admissible at trial, officers must have a clear understanding of the legal requirements for those conditions.

Plain View Seizures:

Officers do not have to blind themselves to what is in plain view if an item they see can be associated with a crime or criminal behavior, simply because they do not have a warrant.

In a constitutional sense, when an officer sees an item in plain view, from a place the officer has a lawful right to be, *no search* has taken place. The owner or possessor obviously has *no reasonable expectation of privacy* for items which are in plain view. Without an expectation of privacy, the owner or possessor has no Fourth Amendment protection.

Even though an item is in plain view, officers must still meet certain requirements before the item may be *seized* legally and used as evidence.

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Officers must have:

- Probable cause,
- A lawful right to be in the location, and
- Lawful access to the item.

Even though officers need not appear before a magistrate, they still must have enough facts to provide probable cause, that is, a *fair probability* that the item in plain view is contraband or evidence of a crime. The incriminating character of the item must also be *immediately apparent* to the officer.

NOTE: Officers may use all of their senses, not just sight, to obtain probable cause. The plain view doctrine, therefore, can also include items they can smell, hear, or touch from a lawful position.

Officers must have a *lawful right* to be at the location from which they initially observe the item. That is, the observation must be made from a vantage point that does not violate an individual's reasonable expectation of privacy.

Any area that the general public or some members of the public have been given either express or implied permission to be in is considered a **public access area**. Officers have the legal right to make observations from any public access area at any time.

Simply because an officer can see an object in plain view from a lawful location *does not automatically* mean the officer may legally *enter* private property without a warrant to seize it, even if the object is obviously contraband or evidence of a crime. The officer also needs lawful access.

Lawful *access* to private property is most commonly obtained when:

- The officer's entry is based on *consent*.
- The officer's entry is based on *exigent circumstances*, for example, a reasonable belief that the evidence will be destroyed if entry is delayed in order to obtain a warrant.
- The officer has lawfully entered the area for some other purpose (e.g., to conduct a parole or probation search, or an administrative or regulatory search, etc.).

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Warrantless Searches in General:

Because of the Fourth Amendment, warrantless searches of private property are presumptively illegal. However, **case law** has created some exceptions to the warrant requirement. Warrantless searches may be upheld if it can be shown that the peace officer's conduct came within one of these exceptions.

The first clause of the Fourth Amendment states that people have a right to be protected from unreasonable searches and seizures by government agents.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

The Fourth Amendment does not give individuals an absolute right to privacy, and it does not prohibit all searches — only those that are *unreasonable*. The courts have identified certain *specific conditions and circumstances* where warrantless searches and seizures are considered *reasonable* and, therefore, legal.

In addition to plain view seizures, these exceptions to the usual warrant requirement include:

- Patdown/frisks,
- Consent searches,
- Searches pursuant to exigent circumstances,
- Searches incident to custodial arrest, and
- Probation/parole searches.

In deciding whether a warrantless search or seizure was legal, courts will always consider the *totality of the circumstances*. However, officers must always have specific facts to demonstrate that the search or seizure fell within one of the exceptions to the warrant requirement.

Patdown/Frisk Searches:

Normally, *no* searches are permitted during a detention. However, if an officer has a factual basis to suspect that the person being detained is carrying a concealed weapon or an object that could be used as a weapon, the officer is justified in conducting a *limited* search for the weapon without a warrant.

A patdown/frisk is a strictly limited search for *weapons* of the outer clothing of a person who has been lawfully detained. *A patdown/frisk is a search for possible weapons only, not a search for contraband or other evidence.*

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Patdown/frisk searches of detainees are allowed to prevent an unexpected assault on peace officers. But a generalized, non-specific concern for officer safety is *not* sufficient reason to allow for the intrusion of a patdown.

For a patdown/frisk to be lawful:

- The person must be lawfully detained for an investigative purpose, and
- The searching officers must be able to articulate *specific facts* which caused them to reasonably believe the person is dangerous or may be carrying a weapon.

The scope of a patdown/frisk search is limited to:

- A patdown of the outer clothing
- For weapons or potential weapons *only*.

Once the officer conducting the search realizes an object is not a weapon, the officer cannot further manipulate the object; the officer must move on. Any additional feeling, grabbing, or manipulating of the item is outside the scope of a patdown/frisk search and will be considered an illegal search.

An officer need *not be absolutely certain* that the person is armed or potentially dangerous. However, the officer's suspicion must be reasonable and based on specific facts.

If during a lawful patdown for weapons, an item is discovered that is *immediately recognized* as contraband (based on plain sight, smell, or touch), the officer may seize it. If the person is placed under arrest, the officer may then conduct a *full* search incident to the custodial arrest.

If the item is *not* immediately recognized as contraband, the officer may not manipulate the suspected area or object further in order to establish its nature, unless the officer is still concerned it may be a weapon or potential weapon.

If the officer comes across a container on the person during a patdown/frisk, the officer is entitled to seize it and open it *only if* it is reasonable to believe it can be used as a weapon or that it might contain a weapon. Detention alone does not give officers the right to search (open) the container unless their knowledge and experience provide *probable cause* to believe that it contains contraband (i.e., they could easily feel that the object was small and resilient like a heroin-filled balloon), since with probable cause they could make an arrest. (In general, common containers like cigarette packs and film containers are not searchable.)

During a patdown, an officer may reach inside a suspect's clothing or pockets to inspect an object further only if:

- The object reasonably felt like a weapon or something that could be used as a weapon, or

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- The suspect's clothing is so rigid or heavy that the officer could not rule out the possibility of a weapon or potential weapon.

If an officer discovers an object during a patdown which the officer believes is a weapon or a dangerous instrument which could be used as a weapon, the officer has a right to seize it from the person. The officer may hold the weapon or potential weapon until the detention is concluded. If there is no probable cause to make an arrest, then the item must be returned to the subject.

Officers may conduct a patdown/frisk search of any person the officers have a *duty or are obligated to transport* before permitting the person to ride in a law enforcement vehicle. If officers are not obligated to transport the person, a patdown/frisk search is permitted only if the officer informs passengers that:

- They have the right to refuse the ride, and
- If they accept the ride, they must consent to a patdown/frisk search first.

Consent Searches:

Generally, the Fourth Amendment prohibits warrantless searches. However, peace officers may enter premises and/or conduct searches without a warrant if they have obtained valid consent.

If officers have probable cause to search but lack exigent circumstance to justify a warrantless entry, they should always seek a warrant instead of seeking consent.

Without a warrant:

- The occupant of the property has the right to refuse entry and therefore refuse the search.
- Even if they enter with consent, officers may not detain persons who are on the premises unless they have reasonable suspicion of criminal activity.

Seeking consent rather than obtaining a warrant can also serve to warn suspects of pending law enforcement action. The evidence may be destroyed or removed during the time that the warrant is obtained. Officers are not allowed to secure or freeze the premises in situations where they have created the exigency by their unintentional notification.

For consent to be valid, the consent must be:

- *Voluntary*, and
- Obtained from a person with *authority* to give that consent.

NOTE: If the consent is valid, the consenter has temporarily relinquished any expectation of privacy for the area or item to be searched.

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Officers may search those places and things they reasonably believe the consenting person authorized them to search. As long as the search remains within the scope given, officers may seize any crime-related evidence which they discover.

If the consenting person expressly or implicitly restricts the search to certain places or things, officers must honor those restrictions. If the officer tells the consenting person what type of evidence they are searching for, the scope of the search must be limited to those places and things in which such evidence may reasonably be found.

Voluntary consent means an act of free will and not the result of duress or coercion. If consent is merely a submission to an assertion of authority or coercion, the consent is not voluntary. Any search under such conditions would be unlawful, and any item(s) seized would not be admitted as evidence at trial.

Officers may inadvertently undermine the voluntariness of consent by their conduct. Officers who seek consent must make it clear that they are *requesting* permission to search -- not demanding it.

Consent must be given in the form of some *affirmative act*, either as express consent or implied consent.

The courts have ruled that it is *not legally* necessary for officers to advise potential consenters that they have a constitutional right to refuse consent of a warrantless search. However, giving the consenting person such a warning is a strong positive factor indicating the voluntariness of the consent.

A consenter must have actual or apparent *authority* to consent to the search. Problems may occur when a person consents to the search of property owned or possessed by another.

The person giving consent has the right to withdraw or limit that consent at any time during the search.

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Consent can be withdrawn by:

- Expressly doing so (e.g., “I don’t want you to search anything more”), or
- Making a statement (e.g., “I want you to leave now”) or engaging in conduct that reasonably indicates that the consent is being withdrawn (e.g., blocking a doorway and saying “I don’t want you to go in there,” or not handing over the keys).

If officers ignore the withdrawal or limitation of consent, any evidence that is subsequently seized may be inadmissible at trial.

Exigent Circumstance Searches:

Officers may lawfully enter an area in which an individual has a reasonable expectation of privacy when there is a *compelling need for official action* and no time to secure a warrant.

Exigent circumstances mean an emergency situation requiring swift action to prevent:

- Imminent danger to life
- Serious danger to property
- Imminent escape of a suspect, or
- The destruction of evidence

NOTE: Once inside, officers may do whatever is necessary to resolve the emergency -- *nothing more. Once the emergency has dissipated (no longer any imminent danger to life, property, etc.), a warrant may be needed for further searching.*

Under exigent circumstances, the primary purpose of the officer’s entry is to attend to the emergency situation. After entering the premises, officers may conduct a search *only if it is reasonable to believe a search is necessary to secure the emergency.*

Officers who are conducting a lawful search based on exigent circumstances may seize any item in **plain view** if there is probable cause to believe the item is contraband or evidence of a crime.

When exigent circumstances exist, officers are normally not required to comply with knock and notice procedures before entering.

If an officer reasonably suspects that a *person* (victim or another person), inside an area that would be considered private *property*, may be injured or ill, and in *immediate need* of help, the officer may enter the property without a warrant.

If an officer reasonably suspects there is a need to enter a private area in order to protect the *property* of the owner or occupant, the officer may enter without a warrant.

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It is lawful for officers to enter private property without a warrant in order to prevent the *escape* of a suspect, especially if the suspect is armed and dangerous or has just committed a violent felony.

Officers may enter premises without a warrant or consent when there is an immediate danger of *destruction or removal of crime-related evidence*.

NOTE: A mere suspicion that evidence will be destroyed does not amount to exigent circumstances. There must be specific facts that evidence will likely be destroyed or removed without intervention.

After the emergency is secured, officers must vacate the premises within a reasonable amount of time and may not reenter *unless* they obtain a search warrant or consent.

Officers may *not* use exigent circumstances as an excuse for a warrantless entry if they have *created* the emergency unnecessarily by their own conduct.

Searches Incident to Arrest:

When a suspect is lawfully arrested and taken into physical custody, a limited right exists for officers to conduct a warrantless search not only of the suspect's person but also of the property and area within the suspect's immediate control.

A search incident to arrest may be conducted when:

- Probable cause for a lawful arrest exists,
- The suspect is taken into custody, and
- The search is contemporaneous with the arrest.

NOTE: The search is justified by the custodial nature of the arrest, not by the nature or circumstances of the crime that lead to the arrest.

A search incident to a custodial arrest may include:

- A full search of the arrestee's person,
- Containers on the arrestee's person, and
- The nearby physical area that was under the immediate control of the arrestee (sometimes referred to as "within arm's reach").

To conduct a lawful search incident to arrest, the suspect must be taken into custody. A **custodial arrest** is one in which the suspect will be transported to another location or facility, such as a station, jail, detox center, juvenile hall, or school. A search incident to arrest is *not* permitted when the suspect is merely *cited and released*.

To be legal, the search must be **contemporaneous** with the arrest. That is, the search must be conducted:

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- At or near the time of arrest, although either can precede the other,
- At or near the place of the arrest, and
- While the arrestee is still on the scene.

NOTE: If the search precedes the arrest, the officer must have probable cause to arrest at the time of the search. The search can still be upheld as contemporaneous even if delayed somewhat, if the delay is reasonably necessary (e.g., for safety reasons), and the search is conducted *as soon after the arrest as practical*.

Officers may search an area that is or was reasonably within the arrestee's control. This could include any area from which the arrestee may:

- Grab a weapon,
- Obtain any item that could be used as a weapon, or
- Destroy evidence.

NOTE 1: The fact that the suspect has been handcuffed or otherwise immobilized does *not* eliminate or change the "arm's reach" rule.

NOTE 2: It is improper to try to expand or enlarge the area of an arrestee's immediate control by moving the suspect (e.g., from one room to another) in order to enhance an officer's ability to see objects in plain view.

A **protective sweep** is a brief search to look for individuals only. If officers are already lawfully inside or outside a house and have a specific factual basis for believing there may be other suspects inside who pose a danger to them, the officers can conduct a protective sweep.

Protective sweeps are limited to spaces *immediately adjoining* the area of an arrest:

- Where another person could be hiding, and
- From which an attack could be immediately launched.

It is illegal to sweep into areas *beyond* those "immediately adjoining" the arrest location, unless the officer has reasonable suspicion, based on articulable facts, that there may be someone there who poses a danger to the officer.

Any contraband or crime-related evidence in plain view during a protective sweep may be seized.

Searches During Hot Pursuit:

Officers who are in hot pursuit of a suspect may conduct the following warrantless searches:

- Searches for suspects: Officers may search any area that is large enough to contain the individual being pursued.

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- Search for information: Officers may search an area into which the suspect fled for purposes of discovering the identity of an unknown suspect.
- * Search for discarded evidence/contraband: Officers may search areas in which a suspect has entered whenever such officer reasonably believes the suspect has hidden or discarded evidence, weapons, or contraband that is related to the criminal act prompting the pursuit.
- Search to ensure safety: Officers may search through an area or dwelling to locate the suspect or other involved persons whenever it is reasonable to believe the safety of the officer or other person is threatened.

Hot pursuit vs. fresh pursuit:

- Hot pursuit can best be defined as physically chasing a suspect. One who is physically evading arrest or apprehension.
- Fresh pursuit is an officer conducting an immediate, uninterrupted, continuous investigation.

Emergency Searches:

When an officer reasonably believes there is an imminent and substantial threat to life, health, or property, such officer may conduct a search and seizure for the purpose of controlling or eliminating the imminent threat.

Searches by Officers of the Opposite Gender:

Laws governing search and seizure make no distinction between treatment of men and women. Officers may conduct a search of either sex incident to an arrest. When a male officer has some reason to believe a woman should be searched for evidence or weapons, she should be handcuffed behind her back. A female officer may then be called to the scene of the arrest to conduct the search, or the female arrestee may be transported to a female officer at the Morgan Hill Police Department. Even though male officers should avoid searching females, there may be occasions when such a search is necessary. The male officer may search the female if he has reason to believe she has concealed evidence or a weapon and there is a possibility she may be able to dispose of it before a female officer can be reached. Under any circumstances, the male officer must be certain before searching a female that the immediate search is unquestionably necessary. The above procedure would also apply to female officers with male suspects.

Searches and Seizures Involving Motor Vehicles:

The Fourth Amendment's protection against unreasonable searches and seizures extends to a person's vehicle and property inside the vehicle. However, the courts have created

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several exceptions to the Fourth Amendment's warrant requirement because of a motor vehicle's potential mobility and reduced expectation of privacy.

The courts have created an exception to the warrant requirement when a motor vehicle is involved. They have determined that the risk of the vehicle being moved to a different location, in combination with the reduced privacy that people have in vehicles and their contents, justifies a warrantless search as long as the search is based on *probable cause* that the vehicle contains contraband or evidence of a crime.

If officers honestly believe they have enough information to obtain a search warrant for a vehicle from a magistrate, it is legal for them to go ahead and search the vehicle *without* a warrant.

Warrantless searches of vehicles based on the **probable cause exception** are also referred to as searches under the "automobile exception," or the "vehicle exception," to the usual warrant requirement.

NOTE 1: The probable cause exception applies not only to any vehicle which is mobile but also to any vehicle which *reasonably appears* to be mobile, even if, in fact, it is not.

NOTE 2: If the vehicle is in a place which has a reasonable expectation of privacy, such as a garage, a warrant may be necessary to search (enter) the property (garage).

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The conditions required to justify a probable cause vehicle search are exactly the same as those necessary to obtain a search warrant. For a search of a vehicle to be legal under the probable cause exception:

- The vehicle must have been lawfully stopped, or otherwise be lawfully accessible, and
- The officers must have enough facts, knowledge, training, or experience to provide probable cause that the item they are seeking will be found inside the vehicle they want to search.

The scope of a vehicle search based on probable cause depends upon the item or object the officers are searching for. Officers may search any part of a motor vehicle, or anything inside the vehicle, as long as what they are searching for might *reasonably be located there*. This includes, but is not limited to, the:

- Passenger compartment,
- Glove compartment,
- Hood,
- Trunk,
- Closed personal containers.

A motorhome is considered a motor vehicle when it is being used on a highway, or if it is capable of such use and is located in a place not regularly used for residential purposes.

Probable cause to search a vehicle means *exactly the same thing that it does in a search warrant context*. **Probable cause to search** means there is enough credible information to provide a fair probability that the object the peace officers are looking for will be found at the place they want to search.

Under the probable cause exception, it is *not* necessary that the search of the vehicle takes place contemporaneously with the vehicle stop (e.g., on the roadside at the time of the stop). Instead, officers may have the car towed away and conduct the search at a later time, even after it has been impounded and is in police custody, as long as they still have probable cause.

If officers have probable cause to believe the item they are looking for is inside a vehicle, they are entitled to open and search any closed, personal container within the vehicle which might *reasonably contain the item*. The probable cause to search a container may be provided through the officer's sight, smell or touch, or by the container's shape, design, or the manner in which it is being carried.

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Plain View Seizures from Vehicles:

Seizing any crime-related evidence that is within an officer's plain view from a place the officer has a lawful right to be does *not* involve any type of *search*.

Officers must meet the same requirements for plain view seizures involving vehicles as they would for seizing an item within plain view anywhere else.

Officers must:

- Have probable cause to believe the item is crime-related,
- Lawfully be in a location to observe the item, and
- Have lawful access to the item.

To seize evidence from a vehicle, officers must recognize the item as being crime-related or have probable cause to believe that it is. Such probable cause may be based upon information from reliable informants, the knowledge, and training of the officers, plain smell, etc.

It generally makes little difference if an officer observes the crime-related item from outside a vehicle or while the officer is lawfully inside the vehicle. The area that can be observed from outside a vehicle (i.e., the passenger compartment) carries such a low expectation of privacy that officers may enter the vehicle to seize the property.

NOTE: The use of a flashlight or other reasonable sensory enhancement tool, either from outside the vehicle or after lawful entry, is permissible as long as the device allows the officer to see anything that would have been visible during daylight hours.

Protective Searches of Vehicles:

A **protective search of a vehicle** is a *limited* warrantless search of the passenger compartment of a vehicle for weapons.

A protective vehicle search is permitted if:

- The vehicle is being lawfully detained, and
- The officer reasonably believes, based on *specific facts*, that there may be a weapon (lawful or unlawful) or item that could be used as a weapon, inside the vehicle.

Officers need only a *reasonable suspicion* that a weapon or potential weapon is in the vehicle. However, this suspicion must be based on specific facts or information.

Like a pat down/frisk search of a detained person, protective vehicle searches are allowed to prevent an unexpected assault on peace officers.

Officers may search:

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- Only for weapons or potential weapons,
- In the *passenger compartment* of the vehicle,
- Where the occupant(s) of the vehicle would have reasonable access to the weapon or item that could be used as a weapon.

Once the searching officer determines there are no weapons or potential weapons within the passenger compartment, the search must end.

While conducting a protective vehicle search, officers may seize any item in plain view if there is probable cause to believe it is contraband or evidence of a crime. Officers may also develop enough probable cause to continue searching the vehicle based on the probable cause exception to the warrant requirement.

During a protective vehicle search, if the officer comes across a container within the passenger compartment, the officer is entitled to seize it and open it only if it is reasonable to believe that it could be used as a weapon, or that it might contain a weapon.

Consent Searches of Vehicles:

If officers obtain valid consent to search a vehicle and/or any item within the vehicle, the warrantless search will always be upheld as legal.

The conditions for searching a vehicle based on consent are the same as any other **consent search**.

Consent must be:

- Voluntary, and
- Obtained from a person with *authority* to give that consent.

Officers may search only those areas of the vehicle they reasonably believe the consenting person authorized them to search. If the consenting person expressly or implicitly restricts certain areas of the vehicle or items within the vehicle, the officers must honor those restrictions.

For any consent obtained during a vehicle stop or detention, there may be a question as to its *voluntariness*. A court will determine whether consent was truly voluntary based on the *totality of the circumstances*. Although not required by law, voluntary consent *during* a lawful vehicle stop, or even *after* a vehicle detention has been concluded, will be easier for officers to prove if they:

- Obtain a signed consent-to-search form, or
- Verbally inform the individuals in authority that they have a right to refuse consent.

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Consent to search a particular area may or may not include searching any closed container within the area. Officers must clearly understand the scope of the consent being given. Establishing ownership of an object within a vehicle is also particularly important since individuals who disclaim ownership may lack *authority* to grant permission to search it.

Individuals who deny ownership may also lack standing to challenge the validity of the search later in court. Therefore, peace officers should *always* ask if a container within a vehicle belongs to the person who is granting the permission to search the vehicle and include the answer in their report.

Searches of Vehicles Incident to Custodial Arrest:

When an officer makes a custodial arrest of a person in a vehicle, the officer may conduct a warrantless search of the vehicle's *passenger compartment*.

Officers may search the *passenger compartment* of a vehicle if they have made a valid custodial arrest of *any* occupant of the vehicle.

NOTE: The search may be conducted before the occupant is actually placed under arrest as long as probable cause to arrest existed at the time of the search.

No matter what the arrest is for, as long as the driver or occupant of a vehicle is taken into custody, officers may search:

- The passenger compartment of the vehicle, and
- Everything and anything in it.

Examples of such areas include, but are not limited to:

- Closed or open glove compartments,
- Consoles, or
- Containers within the area (e.g., luggage, boxes, bags, clothing.)

NOTE 1: The trunk of a vehicle may not be searched incident to the arrest of an occupant of the vehicle.

NOTE 2: Containers owned by *non-arrested* occupants of the vehicle *are* also subject to a search incident to custodial arrest.

The arrest must be *custodial*, meaning the arrestee will be transported by law enforcement personnel to another location, such as a jail, detox facility, or school. An arrest is not custodial, and therefore no search is allowed if the arrestee is merely cited and released.

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It is immaterial whether the occupant was inside or outside the vehicle at the time of the arrest or when the search began. If officers did not see the arrestee inside the vehicle, they may nevertheless consider the person to be an occupant of the vehicle if:

- The officers reasonably believe the arrestee was an occupant shortly before the arrest, or
- There was something else indicating a close association between the vehicle and the arrestee at the time of the arrest (e.g., the arrestee placed an object inside the vehicle just before the arrest).

A search is deemed incident to an arrest only if it occurred:

- At or near the *time* of the arrest,
- At or near the *place* of the arrest, and
- While the arrestee is still at the scene.

On rare occasions, the contemporaneous requirement can be waived if it was reasonably *necessary*:

- To delay the search,
- To conduct the search in another location,
- To conduct the search after the arrestee was removed from the scene, and
- The search was conducted *as soon as it was practical to do so*.

Vehicle Inventories:

A **vehicle inventory** is not actually a search for evidence or contraband. It is a procedure officers use to account for personal property in a vehicle that is about to be impounded or stored.

To inventory a vehicle:

- The vehicle must be in the *lawful custody* of law enforcement, and
- The officer must conduct the inventory pursuant to *standardized agency policy* or regulations.

The courts have made it clear that a standardized agency policy may be very broad regarding vehicle inventories, permitting examination of any area where valuable or dangerous items are commonly kept. This may include, but is not limited to:

- Under the seats,
- Glove compartments,
- Consoles,
- The trunk, and
- Closed containers.

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A vehicle inventory should never be undertaken for the purpose of finding evidence or contraband, but rather only for *taking note of personal property*.

The purpose of a vehicle inventory is to protect:

- The property of a person whose vehicle has been impounded or stored, and
- The government agency from false claims of loss.

If, *during the course of an inventory*, officers discover evidence of a crime or contraband, they may lawfully seize it.

An inventory may be conducted only after the vehicle has come into lawful custody for reasons other than solely for the purpose of conducting the inventory. The decision to impound and/or inventory must be made in good faith for lawful reasons such as, but not limited to:

- The driver (sole occupant) is taken into custody,
- The vehicle, involved in a traffic accident, cannot be driven,
- The vehicle must be moved to protect it or its contents from theft or damage, or
- Circumstances listed in the Vehicle Code (e.g., vehicle as a traffic hazard, stolen vehicle, etc.).

NOTE: The driver should never be taken into custody on the pretext of searching for evidence or contraband, or to examine personal belongings that may be inside the vehicle.

Assuming the vehicle has lawfully come into police custody, the officer always has the legal authority to impound it and, therefore, to inventory it. However, depending on departmental policy, there may be occasions where the officer may choose to release the vehicle to a validly licensed passenger or another person.

If a vehicle is going to be inventoried, but the driver or other occupant requests possession of some object from inside the vehicle (e.g., purse, clothing, briefcase, etc.), the searching officer may pat the item down for weapons for the officer's own safety before handing it over. Whether or not the item still must be inventoried as an object that was in the vehicle at the time the vehicle was impounded will depend on the department's inventory procedures.

Searches and Seizures Involving Bodily Intrusions:

Officers must recognize that when a search or the seizure of evidence involves intrusion into a person's body, special care must be taken to balance that person's reasonable expectation of privacy under the Fourth Amendment against the government's need to collect evidence.

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Warrant Requirement for Bodily Intrusion Searches and Seizures:

Understandably, a person's reasonable expectation of privacy over their own body is *very high*. Because of this, a *warrant will usually be required to enter a person's body* to search for and seize evidence.

The Fourth Amendment protection against unreasonable searches and seizures is violated when a legitimate expectation of privacy has been infringed. This expectation applies not only to a suspect's property or possessions but also to the suspect's person.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

No person has the legal right to withhold or destroy physical evidence, even if that evidence is located on or inside one's person. The Fifth Amendment protection against self-incrimination only protects what a person may *say*, not any physical evidence that person may *possess*.

Officers must never assume that wording authorizing the search of a suspect's "home, car, *and person*" also authorizes them to enter the person's body. A warrant to conduct a bodily intrusion search must contain exact wording that *expressly permits* any type of bodily intrusion, such as collecting a blood sample.

As in any other warrant procedure, officers must show **probable cause to search** within their affidavit to obtain a warrant. That is, there must be enough credible information to provide a fair probability that the search will result in the discovery of evidence of a crime.

But, in addition to probable cause, the courts also require that *the more intense, unusual, prolonged, uncomfortable, unsafe, or undignified the procedure contemplated, the greater the showing for the procedure's necessity must be*. This additional show of need is often referred to as **probable cause plus**.

Warrantless Bodily Intrusion Searches and Seizures:

Under certain conditions, evidence may be taken from a suspect's body *without* a search warrant.

Officers may seize evidence from a suspect's person if they have obtained **valid consent** from that person to do so and if the search is not considered unreasonably intrusive.

By obtaining a driver's license in California, a person has given **implied consent** for chemical testing (blood, breath, or urine) without a warrant. *Vehicle Code Section 23612* states that persons have given implied consent if they:

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- Have a California driver license, and
- Are lawfully arrested for a Vehicle Code violation, and
- Are reasonably suspected by the arresting officer of being under the influence of drugs or alcohol. Refusal to comply with the implied consent law may result in a fine, mandatory imprisonment if convicted, and suspension or revocation of driving privileges.

Under certain circumstances, seizing evidence from a suspect's person may be done without a warrant as an incident to an arrest. The requirements for such a seizure are identified in the following table.

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To search for and seize evidence from a suspect's body without a warrant, peace officers <i>must</i> have...	Explanation
Probable cause to arrest,	The officer must be aware of facts that constitute probable cause to arrest.
Probable cause to search	The officer must reasonably believe that the search will result in the discovery of evidence of a crime.
Exigent circumstances	It must be reasonable to believe that evidence will be lost or destroyed if the officer waits to obtain a warrant.
A need that outweighs the intrusiveness.	The need for the evidence must outweigh the intrusive nature of the search and any foreseeable danger.

Note: The existence of exigent circumstances may depend on the stability of the evidence being sought. Officers may seize evidence from a suspect's person if it reasonably appears the evidence will be lost or destroyed if the officers wait to obtain a warrant.

Evidence is considered to be either **stable evidence** or **evanescent evidence**. The following table further clarifies the two levels of evidence stability.

Stable Evidence	Evidence that will <i>not change</i> over time. Example: - Blood samples for routine tests, such as typing or DNA
Evanescent Evidence	Evidence that <i>will change</i> or be lost over time. Examples: - Blood samples to test for drugs or alcohol levels - Scrapings from under a suspect's fingernails

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Use of Force During Bodily Intrusion Searches and Seizures:

If a suspect forcibly resists the lawful seizure of evidence from the suspect's body, officers may use reasonable force to carry out the search and seizure.

Officers may use only that degree of force that is necessary to overcome the suspect's resistance and recover the evidence. Officers may not use brutal or excessive force to recover evidence. As a general rule, no bodily intrusion is permissible if the force necessary to do it would *shock the conscience of the court*.

If officers have probable cause to believe there is evidence in a suspect's mouth, they may use reasonable force to remove it or to prevent the suspect from swallowing it. If only minimal force is necessary to remove an object, the warrantless search and seizure will no doubt be upheld. However, if the suspect refuses to open his mouth or tries to swallow the evidence, or it appears that he is about to swallow the evidence, a problem can arise.

Officers are permitted to exert minimal pressure on the neck area to prevent swallowing. *However, such pressure may not prevent breathing or substantially impair the flow of blood to the suspect's head.* In other words, no "choke holds" may be used, because they are too dangerous.

If the suspect has swallowed the suspected evidence or contraband, officers have two major options.

They are to:

- Detain the suspect under controlled conditions and wait until the evidence naturally passes through the suspect's system, or
- Have a physician pump the suspect's stomach or administer an emetic to induce vomiting.

Using an emetic (i.e., a substance used to induce vomiting) to force a suspect to vomit, or having a suspect's stomach pumped, are both considered highly intrusive and unusual.

These actions should be undertaken *only*:

- With the consent of the suspect, or
- If ordered by a physician based upon the physician's judgment of medical necessity (e.g., to prevent serious injury or death).

The manner in which officers describe their conduct in the incident or arrest reports may significantly affect the admissibility of any evidence recovered through the application of physical force. Officers must present enough information to show that their actions were necessary and that the amount of force was reasonable under the totality of the circumstances.

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Identification Procedures:

Officers must be aware of a person's due process rights that protect against *impermissible suggestiveness* when conducting any procedure involving suspect identification.

Introduction to Identification Procedures:

The search for a perpetrator of a crime may include asking a victim or witness to *identify* a suspect from a number of individuals. Once a proper identification has been made, the suspect may be seized (arrested).

The purpose of any identification procedure is to confirm or eliminate a suspect as the actual perpetrator.

Because it is a violation of a defendant's constitutional right to due process to be convicted on the basis of an unduly suggestive identification process, officers may not *suggest in any way* to the victim or witness that a suspect to be observed during an identification process committed the crime. Indeed, officers must be very careful to avoid *any* conduct *before, during, and after* the identification process which might be ruled suggestive.

Officers should not do anything that suggests or could be interpreted as suggesting which suspect to select during any type of identification procedure. The following table summarizes recommended actions or behaviors to aid peace officers in avoiding any form of suggestively before, during, and after an identification process.

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Peace officers should <i>ALWAYS</i>...	Peace officers should <i>NEVER</i>...
Obtain as detailed and complete a description of the suspect as possible from the victim or witness <i>before</i> any identification process. Tell the victims or witnesses that: <ul style="list-style-type: none"> - they should <i>keep an open mind</i>, - the person who committed the crime <i>may or may not</i> be among those present. 	Make suggestions, lead, or prompt victims or witnesses to give a description they do not mean to give.
Maintain an appearance of neutrality before, during, and after the actual viewing.	Tell the witness or victim that: <ul style="list-style-type: none"> - the person who committed the crime has been caught, - the victim's property or other evidence was found in the suspect's possession, or - the suspect has made incriminating statements.
Separate multiple victims or witnesses both before, during, and after the identification process.	Say anything about a suspect to the victim or witness before, during, or after the actual viewing.
	Allow multiple victims or witnesses to: <ul style="list-style-type: none"> - talk together about the identification, or - view an identification process at the same time.

A victim or witness will rarely say that they are *100 percent certain* about their identification of a suspect. If officers feel victims or witnesses are certain about their identification, they may ask for confirmation. However, officers should never ask a victim or witness to state on a scale of 1-10 or as a percentage how sure they are that they are certain. Any identification presented as a scale may give a juror a *reasonable doubt* about a defendant's guilt.

Everything that occurs during the identification process should be noted in the officer's report. This includes:

- A verbatim account of what the victim or witness said, and
- A description of the victim's or witness's response to viewing the suspect.

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Field Show-ups:

A **field show-up** (also called an infield identification or field line-up) is the viewing of a suspect by the victim or witness that commonly occurs in the field shortly after a crime has been committed.

A show-up is appropriate only if it can be done *a short time after the crime* has taken place. The advantages of this short time-lapse include:

- The victims' or witness' fresh memory of the perpetrator and events.
- The immediate release of an innocent suspect.
- The continuation of a search while the trail is still fresh.

The general rule is that an officer who detains a suspect pending a show up should *not move the suspect* to another location, but rather should transport the victim or witness to the suspect.

There are three exceptions to this general rule.

- The suspect clearly and voluntarily consents to being moved.
- Independent probable cause exists to arrest the suspect and take the suspect into custody.
- It is very impractical to transport a witness to a suspect because:
 - the victim or witness is too injured to be moved, or
 - the availability of transporting officers is limited, and the wait would create a greater intrusion on the suspect's freedom than transporting the suspect.

Since the detention of a suspect for the purpose of identification is not considered full custody, the suspect is not entitled to have an attorney present at the time of the in-field show-up.

A full search of the detained suspect, or any search of the suspect's vehicle, should be avoided until after there has been a positive identification, or unless the suspect has consented to the search. Officers may conduct a patdown/frisk of a detained suspect prior to a field show-up only if there are specific reasons to believe the suspect is armed or dangerous.

If at all possible, officers should avoid any indication that the suspect has been arrested and, therefore, perceived as *guilty* by law enforcement authorities.

Unless there is a reasonable threat to officer safety, reduce the inherent suggestiveness of implied custody by displaying the detainee outside the law enforcement vehicle and without handcuffs or other forms of restraint.

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Time and Location:

The identification takes place in the field and generally within one hour of the criminal act. Identification may be conducted later than one hour but must be documented so as to convince the courts that circumstances justified the delayed identification.

Witness Description:

The witness has described as completely as possible the appearance and clothing of the perpetrator.

Justification:

The person to be viewed reasonably matches the witness' description, and/or the circumstances surrounding the presence of such a person in the area are such that a field identification process is justified.

Probable Cause:

If probable cause to arrest is present, the suspect should be taken into full custody (handcuffed and searched) prior to conducting the field identification.

Transportation:

The witnesses should be transported separately to the suspect's location for the field identification. The only time that a suspect should be transported to the witnesses is when they are unable to come to the scene because of injury or health reasons.

Duration:

The duration of the temporary detention of the suspect should be no more than 20 minutes under normal conditions. Should more time be needed, then the reason should be clearly documented in the Incident Report.

Method of Identification:

The witness must be afforded ample opportunity to view the suspect. This means that the suspect should be removed from the patrol unit, or the place of custody, prior to viewing, but only in a way that assures that no physical evidence is contaminated and there is no danger to the suspect or witness. Should the suspect be identified as the perpetrator, the witness should be told to fully explain why he/she thinks that this is the guilty party (same clothing, same facial hair, same scar, etc.). The witness should also describe what role the suspect played in the crime (particularly with multiple suspects).

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Evidence:

No physical evidence taken from the suspect may be presented to the witness until after the witness has completed the field identification process.

Admonishment:

The witness should be admonished prior to viewing the suspect. The witness should be told that a person is being detained that may or may not have committed the crime. As is standard police procedure, the person may be handcuffed, but that this in no way should infer that the person is the guilty party. The Morgan Hill Police Department provides a standard, printed admonishment that the witness can read.

Multiple Suspects:

Photographs should be taken when there is more than one suspect that will take part in the field identification. The photographs should show the suspects in the line and in the same order as they were viewed by the witness.

Photographic Array:

A **photographic array** (also known as a photographic lineup) is an identification procedure in which the victim or witness to a crime is asked to look at a number of photographs in an attempt to identify the suspect.

Identification by means of a photographic array does not have to take place within a short time of the crime, as a field show-up does, but should nevertheless take place while the victim's or witness' memory is still fresh.

A photographic array may be used when the identity of the perpetrator is not known, or the identity is known, but the perpetrator is not in custody. Since there is no intrusion on a suspect's time or privacy, the photographic spread identification process can take place at any location.

Since there is no form of custody involved, the suspect is not entitled to have an attorney present at the time of the identification process.

See Santa Clara County Police Chiefs' Association Line-Up Protocol for further specifics.

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Community Relations and Services

Officers must have an active knowledge of the perceptions and expectations the members of the community in which the officers serve have toward law enforcement in order to promote positive officer interactions with members of that community.

Officer Roles and Responsibilities in the Community:

An officer's knowledge of the community that officer serves can directly influence the officer's ability to perform effectively. A community looks to its peace officers to perform a variety of services for that community.

It is the responsibility of the officers who serve the community to:

- Maintain order,
- Enforce the law,
- Prevent crime,
- Deliver service, and
- Educate the public.

In order to best carry out these responsibilities, officers should adopt a proactive approach to developing a partnership between themselves and persons and groups in the community.

Persons in a community expect peace officers to ensure the safety of the members of that community. From an officer's point of view, maintaining order means taking actions to protect lives and property. From the point of view of a member of the community, maintaining order may mean ensuring an expected quality of life.

The community expects peace officers to make sure that people adhere to applicable laws and regulations. Consistent enforcement by officers sets a standard of low tolerance for crime while demonstrating the equal, unbiased application of the law.

In order to adequately enforce the law and prevent or reduce crime within a community, officers need to develop "beat knowledge." This includes not just knowing the basic layout and makeup of the beat area, but also recognizing specific areas within the community that may require special attention.

Community Attitudes Toward Peace Officers:

Recognition of common community attitudes toward law enforcement and their origins can help officers understand how to create more positive relationships with community members.

Generally, persons directly involved in a crime or critical incident have specific expectations of officers. Many situations are highly charged or emotional, and involved individuals may have unrealistic expectations of peace officers.

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Cultural Diversity

Recognizing Diversity:

Officers need to recognize and respect the complexities of cultural diversity in order to develop the skills necessary for identifying and responding to California's changing communities.

Human beings by nature tend to identify and affiliate with each other in groups whose members share certain things in common. The recognition and preservation of one's identity based on a group affiliation can become a matter of self-esteem and strong personal pride. Group affiliations may not only affect how an individual acts or responds, but also how others interact or respond to that individual.

Culture is a broadly used term that refers to a complex group of shared characteristics including beliefs, values, ways of thinking, behaviors, customs, or traditions. Culture is *learned* and can be passed from one generation to the next. It can condition an individual's thinking and influence both conscious and unconscious behaviors. Culture can be interpreted broadly, encompassing large groups of people from specific geographic or regional areas (e.g., Californians, New Yorkers, Midwesterners, etc.) or national origins (e.g., Mexicans, Germans, Japanese, Italians, etc.).

A **cultural group** is an affiliation of individuals who collectively share any number of common sociocultural characteristics. Cultural groupings in the United States are most often associated with national origins. Cultural groups are based on factors (some physically distinguishable) that include, but is not limited to:

- Common history
- Common geographical basis
- Some Political Agreement
- Common Beliefs
- Shared Customs
- Similar Artistic Basis
- Morals, Mores, and Folkways
- Law by Consensus
- Common Linguistic Bonds
- Common Racial Background

A **sub-cultural group** is comprised of people who have an association, most often voluntary, within a larger culture that have common values, beliefs, and experiences, and they develop close bonds or feelings of unity and pride with the identity of the subculture.

- Law Enforcement
- Criminal Groups and Gangs
- Gay, Lesbian, Bisexual, Transgender
- Amish

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- Sikhs, etc.

No one set of common elements or characteristics can be applied to all cultures. Cultures, just as the people who make up the groupings, are always in a state of change and development.

An **ethnic group** is any group that can be distinguished on the basis of shared characteristics such as nationality, common ancestry, language, common history, race, etc. Individuals within an ethnic group may believe they are alike by virtue of a national origin, or other shared characteristics (**ethnicity**). For example, within America, there are numerous ethnic groups based on nationality (e.g., Mexicans, Koreans), or race.

Race is a term that is often misused to mean the same as ethnicity. Race is an anthropological term for categories that are based on *physical characteristics*. Ethnic groupings may be based on physical characteristics such as race. Race has been traditionally defined as one of three categories. They are Negroid, Caucasoid, and Mongoloid.

In the past, the law enforcement profession was commonly dominated by Caucasian males who were often from European ethnic backgrounds (e.g., Irish, Italian). As communities and regions are changing based on the influx of multicultural individuals, the profession of law enforcement is evolving and becoming culturally diverse. What was previously a group of Caucasian males is becoming a workforce made up of individuals of different genders, cultures, and ethnic backgrounds.

Cultural diversity means the representation or existence of individuals with distinctly different group affiliations within one organization, community, state, nation, or other social system. Such group affiliations can be based on culture, ethnicity, gender, sexual orientation, etc. Awareness and understanding of the diverse cultures within communities and law enforcement agencies can reduce negative ethnocentric attitudes and practices.

Understanding cultural influences on individuals can help peace officers recognize and influence patterns of behavior and build more effective and responsive relationships within the community and within law enforcement itself.

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Crime Prevention and Risk Reduction:

Crime prevention is the anticipation, recognition, and appraisal of a crime risk coupled with specific actions which can be taken to remove or reduce that risk.

There are four common components of crime prevention that can help officers reduce or prevent crime in a community.

- Anticipating criminal activity
- Recognizing crime risks
- Identifying crime problems
- Taking specific actions to remove or reduce the opportunity for criminal activity

Officers can anticipate criminal activity by:

- Becoming familiar with the crime patterns of the area (i.e., beat profiling), and
- Gathering information from people who reside and work in the area.

Officers must recognize the areas and conditions in their communities that may pose a higher risk for criminal activity.

Identifying crime problems involves recognizing and tracking existing patterns or incidents of crime in a community. While recognizing risk factors can help officers predict where conditions are favorable for crime to occur, tracking past or present crime in a community allows officers to focus on where it may be most likely to happen.

Identifying crime problems requires officers to:

- Exchange information with officers on other shifts,
- Exchange information with officers from other departments, and
- Use crime analysis information.

Officers can work to prevent crime by removing or reducing the opportunities. This means taking proactive steps to reduce crime by making conditions unfavorable for it to occur. Some general types of proactive steps are shown in the table below. Officers will discover others as they recognize risks and identify crime problems in their own communities.

Reducing the opportunity for unauthorized people to gain access and decreasing the appeal of the premises for criminal activity is key to preventing crime on both residential and commercial premises. The following table identifies techniques for preventing crime in or around premises.

Officers can help to prevent crime by instituting, sponsoring, or assisting with crime prevention programs within the community. Participating in crime prevention programs not only helps to convey important information to citizens but also allows citizens to see and interact with officers in a positive atmosphere.

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Some common examples of crime prevention programs include, but are not limited to, the following.

- Community “watch” and “alert” programs such as:
 - Neighborhood Watch
 - Apartment Watch
 - Campus Watch
 - Hospital Watch
 - Marina Watch
 - Merchant Watch
- Operation Identification (property identification)
- Child identification and fingerprinting
- Drug education
- Personal safety programs

Problem Solving in the Community:

One measure by which members of the community evaluate peace officers is those officers’ skills in problem-solving and conflict resolution. Frequently this is based on an officer’s ability to actively involve citizens in partnerships that address the causes of crime or meet other community goals.

Officers need to recognize that effective problem solving is a process. It utilizes a basic strategy that should be learned. The following table identifies the components of a basic problem-solving strategy.

Community-oriented policing (COP) is:

- A philosophy,
- A management style, and
- An organizational strategy.

Community-oriented policing promotes proactive problem solving and law enforcement/community partnerships to address the causes of crime and fear as well as other community issues.

Community-oriented policing redefines the roles and relationships between the community and law enforcement by recognizing that both must work cooperatively to identify problems and develop proactive community-wide solutions. Community-oriented policing programs generally incorporate the following principles.

- Shifting the focus of law enforcement from an “incident-driven” system to addressing problems identified jointly by the community and law enforcement
- Reassessing who is responsible for public safety
- Developing shared ownership, decision-making, and accountability
- Setting new public expectations and standards for police effectiveness

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- Increasing mutual understanding and trust
- Empowering and strengthening community-based efforts
- Maintaining constant flexibility
- Committing to long-term and proactive programs or strategies to address the underlying conditions that cause crime
- Acquiring knowledge of available community resources
- Committing agency and personnel resources
- Decentralizing law enforcement services, operations, and management
- Committing to developing new skills through effective training

The problem-solving model most commonly applied to problem-oriented policing is the **SARA** model. This process can be applied to a broad variety of decisions and criminal investigations. The following table identifies the steps of the SARA problem-solving model. Peace officers should note that the SARA model includes all of the steps associated with a basic problem-solving strategy focused on four steps.

- **Scanning** - Identifying the problem
- **Analysis** - Collecting and analyzing information
- **Response** - Cooperatively developing and implementing solutions with other agencies and the community
- **Assessment** - Evaluating the effectiveness of the strategy selected

The Morgan Hill Police Department is committed to having each officer become a part of community policing. Community policing involves the cooperation between the Morgan Hill Police Department and the public that it protects. The job of the beat officer will be extremely difficult without the cooperation of the people that live in the community.

The philosophy of community policing stresses the importance of building trust with the community by empowering average people and making them a part of the process. The public should be reminded that it is the job of the entire community to make their neighborhoods safe and attractive places to live and work. They must be made aware that the community policing effort requires the participation and support of everyone, not just community leaders.

An effective community policing effort requires the support and commitment of the Morgan Hill Police Department, the public, elected officials, community agencies, and the media. Each of these groups needs to become a part of the solution to neighborhood problems rather than being aloof or indifferent.

However, it is important to remember that community policing is not an overnight miracle cure or a quick fix, even though it may make a dramatic and immediate improvement in some target neighborhoods. The officer who spends today organizing a sports league for idle inner-city youths has good reason to hope that this effort will pay off in the future, but there is no guarantee.

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Community policing is a subtle, but profound, way for the Morgan Hill Police Department to approach problems. It offers better odds of making a positive impact as momentum builds in the future.

The beat officer has an integral roll in making community policing work to its fullest. The officer that takes the time to talk with business owners, community members, local residents, children, and gang members will be able to gain additional insight into his/her beat and determine the needs of the community.

Officers must also know other government agencies that will assist the citizens in handling problems that the Morgan Hill Police Department does not or cannot handle effectively. An example would be continual drug problems at an apartment complex. The beat officer can contact the Building Inspector's Department and the County Code Enforcement Office to have the premises checked for violations. Should violations be noted, the landlord may have to evict or reimburse all of the tenants.

Officers are also encouraged to attend community meetings and also speak to local business groups and schools about involving the community in helping the Morgan Hill Police Department to make their communities safe.

The Morgan Hill Police Department has numerous services and programs available for use by the community: Unified Narcotic Enforcement Team, Traffic Safety Officers, and School Resource Officers. The Morgan Hill Police Department will also assist the public in organizing Neighborhood Watch Groups, with inspections of residences and businesses for security suggestions, by providing stickers and coloring books for children, by providing numerous pamphlets on a variety of police-related topics, and with the availability of officers for other community relations work.

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Notice to Appear Form

The “Notice to Appear for Trial” form is initiated by the Traffic/Court clerk in the Records Division when notified that Morgan Hill Police Department personnel are needed for a court appearance. The form is given to the concerned officer. The concerned officer must sign acknowledging receipt of the form. The original signed copy of the form is to be returned to the Traffic/Court clerk and the second copy is to be retained by the officer.

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Building Searches

High-risk searches of buildings or open areas must be carefully planned and executed. A strategic plan of operation should be flexible and allow for adjustments and modifications as the situation unfolds.

	Action Guidelines
Preparing to enter a building	<p>Make certain a perimeter has been established.</p> <p>Contact the owner/responsible party for the building.</p> <p>Locate suspect's point of entry/exit.</p> <p>Determine the number of searching officers necessary.</p> <p>Attempt to contact suspect(s).</p> <p>Announce proposed entry.</p>
Making a tactical entry	<p>Approach the building with care.</p> <p>Open the door (entry point) completely and listen prior to entering the area.</p> <p>Enter quickly making use of available cover and allowing eyes to adjust to changing light.</p> <p>Assess the situation before continuing action.</p>
Conducting a systematic search	<p>Make use of any available light.</p> <p>Visually scan the area in a systematic manner.</p> <p>Search each area thoroughly before moving on to the next area.</p> <p>If the structure is a multistory building, confine the search to one floor at a time.</p> <p>Open doors completely.</p> <p>Maintain contact and cover roles throughout the search.</p>
Confronting a suspect	<p>Communicate effectively.</p> <p>Take control of the suspect.</p> <p>Secure and search the suspect.</p> <p>Question the suspect regarding the existence of any additional suspects and weapons.</p> <p>Remove suspect from the area.</p> <p>Continue the search.</p>

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Use of Force – Entering Buildings

References:

Government Code sections: 26600, 26601, and 26602

Penal Code sections 692, 693, 694, 697, 830, 835a, 836, 844, and 845.

The use of destructive force in entering a building will be practiced with utmost restraint and discretion, and only after all reasonable alternatives have been exhausted.

Forcible entry into a building, either for the purpose of arresting an offender, protecting life or property, in response to a request or for any other purpose will generally be guided by the applicable provisions of the above-referenced sections and must be determined by the particular circumstances. Care will be exercised by officers preparatory to entering any building by force.

Preparation:

- Purpose for which building is to be entered is actual and justified.
- Bystanders and neighbors are warned, and any danger to them is neutralized.
- All reasonable precautions for officer safety are maintained as strictly as possible.
- Safety of building's occupants is not unreasonably jeopardized.
- Building's occupants are aware of officer's purpose, and admittance is appropriately demanded.

Exceptions:

- Hot pursuit of a wanted person for a serious crime.
- When such notice would substantially increase the threat to officer's safety.
- In order to safeguard life or property.
- Upon threat of destruction of evidence.

Procedure:

The Patrol supervisor will be notified of all incidents of forcible entry by an officer, and if possible, he/she should be notified to respond before making the forcible entry.

An Incident Report shall be completed prior to the officer going off shift which will describe damage to private property that was incurred as a result of official actions.

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The Incident Report will include:

- Location of incident
- Incident number
- Nature and extent of the damage
- Justification for using forcible entry
- Complete description of damage, including photos.
- Name and address of property owner, other Law Enforcement personnel present, suspects, and witnesses.

Property owner or person who has responsibility for the property will be notified and advised of the damage.

- Advise party to have the damage repaired by commercial or private means if they so desire.
- Make no comment as to whether the City of Morgan Hill will pay for the damage.
- Advise party that they can submit the repair/replacement bill to the below agency for consideration of payment:

City of Morgan Hill
17575 Peak Ave
Morgan Hill, CA 95037

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The Canine Unit

Reference: Policy Manual 318

Deployment:

The Morgan Hill Police Department is currently comprised of one canine handler and a service dog. The following information will assist you when backing-up the canine unit and to provide you with answers to how and when the dog can be deployed.

The Canine Unit can assist the patrol team in locating outstanding violent and/or felony suspects. They are trained to search outside as well as inside buildings and vehicles. The service dog is also trained to protect the handler when he/she is being assaulted and, if the service dog is cross-trained, the dog can also be used to locate Methamphetamine, Heroin, Cocaine, and Marijuana.

The canine handler will deploy the service dog only under certain circumstances. The handler must weigh the seriousness of the crime, whether the suspect poses an immediate threat to the officers and community and whether the suspect is actively resisting arrest. The courts have ruled that most felony crimes are considered “serious.” This includes property crimes such as burglary and auto theft. There are some misdemeanor crimes that are also considered serious in nature. This includes brandishing a weapon and other misdemeanor weapons charges. The handler may also decide not to use the dog if the situation is too dangerous (i.e., unarmed dog vs. armed suspect) or if the dog has not been trained for what he is being expected to do. When in doubt, it is always better to consult with your supervisor and have him/her call for the canine unit and allow the handler make the decision whether or not to use the dog.

A canine is also a use of force but does not fall within a specific level in the Use of Force Continuum. A number of court decisions have ruled that it is not lethal force. There is only one known incident of a police dog killing a suspect. The mere presence of a dog may encourage a suspect to give up. The same person who will willingly take on police officers will not want to take on a dog. If necessary, the canine will bite a fleeing or combative suspect. The dogs are trained to stop biting or stop pursuing on command. A canine is the only use of force which can be recalled after it is deployed and if taken from you, cannot be used against you.

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Perimeter:

The most important task a patrol officer can do in trying to contain a suspect is to set-up a perimeter. Without a good perimeter, the canine team's chances of finding the suspect drop considerably. The following are some good ways to contain a suspect within a perimeter.

1. When responding to an area where a suspect is running, use your lights and sirens. A suspect that hears lots of different sirens coming into the area is more apt to find a place to hide instead of risk being seen by in-coming units.
2. When you arrive in the area, establish where your perimeter around where you think the suspect will be. This is difficult because if you make the perimeter too small, the suspect might have already escaped it, and if it's too large, the suspect may be able to sneak out of it.
3. Respond to a corner of the perimeter and leave all of your emergency lighting on and illuminate the area with your takedown lights and spotlights. It has been studied that most suspects will not run through an illuminated area in fear of being seen.
4. The advantage of being on the corner of the perimeter is that you can see in two directions instead of just one. This is important for a small police agency due to limited manpower on a perimeter.

Your responsibility on a perimeter post is very important. Not only are you responsible for watching for the suspect, but you also have to keep vehicular and pedestrian traffic out of the perimeter and check any vehicles or pedestrians leaving the perimeter for the suspect. Once the perimeter is established, and the suspect is contained inside, the canine unit can conduct a slow and methodical search and most of the time, locate the suspect. This is definitely a team effort.

Building and Area Searches:

The handler will need a backup officer to accompany him/her on a building or area search once a determination is made to use the canine. The backup officer is an integral part of the search. It is important for the backup officer to be an extra set of eyes and not to watch the dog, which is the handler's job. When the suspect is located, the backup officer will probably take him into custody, as the handler will be controlling the dog.

As the backup officer, it is important to stay close to the handler so the dog will not confuse you as the suspect. Remember to always stay behind the canine handler and to never run after a fleeing suspect. The canine may bite the closest person running near him - uniform or no uniform.

If you are asked by the canine handler to cover or back-up the unit, let the handler know if you are uncomfortable working with the dog so you can be replaced. It is always better for the unit to have a cover officer that is comfortable working with the dog as the dog can sense this and be distracted.

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Tracking:

Tracking is used when the path a person traveled is not known. This can be a suspect who fled the scene or a lost person. The dog can follow a track over hard or soft surfaces. The Morgan Hill police dog can follow a recently laid track even if there is no scent object left by the suspect. The time period is dependent on environmental conditions. The Bloodhound breed, used by the Sheriff's Department, can follow a much older track (days old) even in heavily traveled areas.

A track is done using a harness and a long leash. The Bloodhounds are the ideal tools for tracking a lost person. They can also be used for criminal suspects but are not trained to bite. The patrol watch commander will make the decision on whether or not an incident requires requesting mutual aid for a Bloodhound.

Some things to keep in mind on a tracking call.

- Don't contaminate the scene.
- Limit the number of people in the scene.
- Don't go where the suspect was last seen.
- Avoid touching any item that the suspect might have touched.
- If the suspect ran from a vehicle, do not enter the vehicle or contaminate the area around the vehicle.
- Footprints in the dust, blood, or mud can be used as scent articles, so protect from contamination.

Narcotic searches:

Narcotics detection dogs are trained to find Methamphetamine, Cocaine, Heroin, and Marijuana. There are other narcotics that the dog might alert on due to having the same chemical make-up. They can be used for searching outside areas, vehicles, and buildings. They are not trained to find narcotics hidden on a person.

Other Specifically Trained Service Dogs:

As mentioned earlier, the Bloodhound is specifically trained for tracking. There are other specifically trained service dogs that are available through mutual aid from other police and fire agencies and private groups. There are dogs that are trained to sniff for accelerants used to make explosive devices, arson investigations, search and rescue, and cadaver dogs (dogs that search for dead bodies). Again, if you believe that your investigation warrants the use of one of the specifically trained dogs, you must contact the on-duty watch commander first.

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Court Procedures/Appearances

Officers will periodically receive subpoenas and will have to appear in court and testify to an incident that they investigated or witnessed. Officers will conduct themselves in an appropriate manner and be prepared to testify truthfully to the facts of the case.

Attendance and Dress:

Officers should appear either in full uniform or in civilian clothes of businesslike appearance. The officer's clothing should be neat, clean and appropriate and consist of one of the following:

- Business suit and tie
- Sport coat, slacks, and tie
- Women's equivalent for the above
- Regulation uniform (long sleeve shirt and tie)

Preparation of Exhibits:

Officers will have the case in which they are concerned properly prepared, and all property that is to be used as evidence suitably arranged for presentation in court. Several days prior to the court date, officers should check with the detective assigned to the case to determine who will be bringing the evidence to court. Often, the detective will not appear in court, and it will be the officer's responsibility to retrieve the evidence.

Notification of Arrival:

Officers, appearing in court, will notify the prosecuting attorney or assigned court officer of their arrival.

Notification of Non-Attendance:

Officers must notify the subpoena clerk in records and the assigned Officer District Attorney in all cases when they will be unable to make a scheduled court case after initially acknowledging that they will be there. Officers who fail to appear on a court case can be subject to departmental disciplinary action.

Conflicting Court Appearance Dates:

When an officer receives two or more court notices requiring an appearance that cause a conflict with one another, such as two trials at the same time, that officer is responsible for notifying the assigned Officer District Attorneys of the conflict.

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Testifying:

Officers will testify with the strictest accuracy, and when cross-examined by the defense, will answer with the same readiness and civility as when testifying in support of the charge.

Officers should have with them the Miranda Warning card that is issued by the Morgan Hill Police Department that was used to advise the defendant of his/her rights. The court will require that the officer's testimony specify the exact words used in the advisement.

Appearance in Civil Court:

Officers that are subpoenaed in a civil action will ensure that the party requesting his/her appearance has paid the appropriate fees to the Morgan Hill Police Department. These fees must be paid prior to the officer's appearance in court.

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Field Interviews

The “field interview” is a very useful and effective means of maintaining the safety and welfare of the community. By remaining alert, perceiving circumstances that may indicate crime, stopping suspicious individuals, and conducting field interviews, officers serve the community by preventing, discovering, or solving crimes. However, the courts have indicated that certain elements must be present before a peace officer initiates a field interview.

Field Interviews - Definition:

A field interview is a temporary detention of a person for purposes of investigating unusual actions which reasonably infer criminal activity. A field interview occurs when an officer uses authority either to compel an individual to stop, to remain in a certain place, or to perform some act (such as walking to a nearby location where the officer can use a radio or telephone). If a reasonable person reasonably believes that the person stopped is not free to leave the officer’s presence, a field interview is occurring.

Authority and Required Elements:

If an officer has a reasonable suspicion that an individual has committed, is committing, or is about to commit any crime, such officer has the authority to stop that individual and conduct a field interview. The officer may exercise this authority in any place that he/she has a right to be. Both pedestrians and individuals in vehicles may be stopped. The following elements must be present before a field interview is authorized:

- The officer has reasonable suspicion that some unusual or out of the ordinary activity is or has taken place.
- There is some indication that the individual under suspicion is connected to the unusual activity.
- There is some suggestion that the unusual activity is related to a crime.

All three elements must be present before an individual is stopped and a field interview conducted.

Reasonable Suspicion:

The term “reasonable suspicion” is not capable of precise definition; it is more than a hunch or mere speculation on the part of the officer, but less than the probable cause necessary for an arrest.

Reasonable suspicion may arise out of a contact, or it may exist prior to or independently of a contact. Reasonable suspicion may be based on factors such as appearance, actions,

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prior knowledge, area, time and experience. In addition, officers will strive to utilize factors that can be documented later. Mere hunches or guesses are not adequate.

Initial Approach:

Once the required elements have been established, the person may be stopped. However, provided that the public is not endangered and the chance of losing the suspect is not significant, it may be better for the officer to wait if it is thought that by so doing he/she will be able to develop additional information to establish probable cause for an arrest. The guideline is: Don't ruin a good arrest by a premature stop.

Use of Force to Detain:

Generally, no force should be used to affect a stop unless the officer is attacked, or circumstances exist that create probable cause to arrest. The officer may use the amount of force necessary to defend himself/herself or affect a full custody arrest.

Refusal to Cooperate:

Refusal to answer questions or cooperate in other ways does not, by itself, establish probable cause to arrest. However such refusal may be considered, along with other facts as an element which may establish reasonable cause if it would be reasonable for an innocent individual to cooperate. Nevertheless, officers cannot compel an individual to cooperate in a field interview.

Moving the Detained Individual:

Officers should not transport or otherwise move a stopped individual from the location where the stop is made except to verify answers given and only when no other method of verification is available. Nevertheless, the distance such an individual may be moved is limited. A reasonable standard is to limit the distance to 100 feet or less. Stops are intended to be on-the-spot inquiries. When a suspect is moved further than a limited distance, the court is likely to conclude that an arrest has in fact been made, thus entailing problems pertaining to a reasonable cause to arrest.

Duration of Stop:

A person may be detained only at or near the scene of the stop for a reasonable time. Officers should detain a person only as long as is reasonably necessary to conclude the investigation. Should further suspicious circumstances arise during this period, the officer may detain the person until the further suspicious circumstances can be investigated. A reasonable guideline is that the stop should be terminated within 20 minutes unless more time is required to verify a person's identity and/or the reliability of the answers given. However, the officer should not detain a person in excess of this time limit merely to ask further questions.

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Field Interview Card:

Since a field interview is based on suspicious activity that relates to a crime, officers should normally complete a "Field Interview Card" and file it in the appropriate location at the completion of the shift. In addition, officers initiating a field interview should maintain a detailed record of the specific facts and circumstances that justified the stop in their field notebook for future reference.

Definition of probable cause:

There is no difference between the meanings of "reasonable cause," which is the term that appears in the California statutes (Pen. Code, § 836), and the term "probable cause" as used in federal Fourth Amendment law. The two terms are identical.

Probable cause to arrest exists when the totality of the circumstances or "total atmosphere" of the case would lead a person of ordinary care and prudence to entertain an honest and strong suspicion that the person to be arrested is guilty of a crime.

Probable cause [to arrest] exists when, under the totality of the circumstances known to the arresting officers, a prudent person would have concluded that there was a fair probability that [the defendant] had committed a crime.

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Morgan Hill Police Department/Fire Coordination

Responsibility:

At the scene of fires, the ranking fireman is in overall charge and will determine when the emergency situation is terminated. Morgan Hill Police Department involvement will consist primarily of crowd and traffic control and security of property and fire department equipment.

Investigation:

Investigation of the origin of fires is the responsibility of the fire department. An officer who discovers arson or attempted arson while investigating any other crime will notify the fire department.

There will be instances when the Morgan Hill Police Department will work with the fire department in the investigation of a crime. This may be a stolen vehicle that has been intentionally set on fire or a fire of suspicious origin that may involve other crimes (narcotics manufacturing, illegal firearms/ammunition, possible homicide, etc.).

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In Progress Crimes

Response to In-Progress Calls:

When officers are responding to in-progress calls or those calls with a high potential for violence, they should use the utmost caution when responding. Officers should never respond to these types of calls alone. They should wait for a second officer before making contact. Officers should be thinking about officer safety at all times.

Duties of First Arriving Unit:

The first arriving unit will evaluate the situation to determine if adequate resources are at the scene or en route. When making this evaluation, the officer first arriving will confer with the person making the initial report, if possible. When the evaluation indicates that more units are needed, or type of response increased, on-scene personnel may make additional requests. In any event, the last arriving unit will relay an evaluation of the situation to Communications as soon as possible after arrival.

Supervisor's Responsibilities and Authority:

The field supervisor has the authority to modify or cancel requests from units on the scene. The supervisor may also respond to the scene and take over the command of the situation.

Response to In-Progress Crimes:

When an in-progress crime involves a significant potential for violence, a multiple unit response is appropriate. Responding units will notify Communications of the following:

- Their arrival
- Their location at the scene
- Their intended actions, if possible
- The presence of elements which confirm or deny the validity of the call
- Suspicious persons/vehicles in or leaving the area

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Duties After Arrival:

Officers assigned to in-progress crimes have a responsibility to perform certain functions prior to gathering evidence or other investigative acts. The major functions are as follows:

- Obtain descriptions of perpetrators and vehicles
- Notify Communications for APB broadcast (local/statewide)
- Secure the area, protect bystanders and evidence
- Control the situation in a manner which reduces a threat to life and property
- Request assistance as necessary such as additional units, specialized units, fire department, ambulance, etc.
- Have Communications telephone open establishments and have a person in charge step outside the building and contact an officer

Responding and Arriving at Scene:

- Respond code 2 or 3 according to department response code guidelines.
- Be alert for any suspicious persons or vehicles that are seen leaving the area.
- At night, the responding units may turn off their vehicle's lights, if possible, prior to arriving in the vicinity.
- Park several residences or businesses away from where the call is located.
- Tell incoming units what is seen and direct them to positions where they can approach the building without being seen.
- If an officer sees something unusual, he/she should hold their position and let the other units know so that they can hold their position.
- Do not enter the building.
- If possible, give a suspect description and a description of a weapon. Wait until the suspect exits the building before attempting to take him/her into custody.
- After the suspect is handcuffed, have Communications call the business and have the manager/employee in charge come out and meet an officer. Once officers are convinced that he/she is the person in charge and there are no suspects still inside, send two officers inside to check the building.
- Once the building is secure, tell Communications the situation is "Code-4".

Nature of Perpetrators:

Experienced burglars and robbers, whether they are committing a residential or a commercial crime, may work with other suspects and thus create an increased threat to the responding officers since they may be armed and may outnumber the officers initially arriving at the scene. Unless known otherwise, officers should treat all such in-progress crimes as having sophisticated perpetrator(s) until a determination can be made otherwise. Responding officers should consider and be observant for the following:

- The existence of lookouts/suspicious persons in the area
- The use of a "getaway" vehicle and/or vehicles to carry away contraband

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- Equipment and tools in the area
- The use of radios and police monitors by suspects
- Areas of concealment/ambush

Response to Security Alarms:

A minimum of two officers (two-one person units or one-two person unit) should respond to all alarm calls. The majority of these types of alarms are false, but the responding officers should still use good officer safety and not become complacent. Some of the different types of security alarms are:

- Audible: These types of alarms emit a loud siren or bell when activated. These alarms will often reset after a certain period of time. An alarm company generally monitors these alarms. The alarm company is usually the reporting party for audible alarm calls.
- Silent: These types of alarms make no noise and are monitored by an alarm company.
- Sonitrol: These types of alarms use an alarm company to monitor a closed business and sometimes residences. The alarm activates a microphone, and the alarm company listens to the activity (sounds, voices, etc.) inside.
- Panic: Usually manually activated for either duress (panic alarm, duress alarm) or a medical emergency.

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Response to Hostage and/or Barricaded Situations

Hostage Situation:

Criminals who use hostages to affect their escape are desperate individuals who, if allowed to escape, will pose a continuing threat to their hostage and to the public at large. The Morgan Hill Police Department does not have the ability to protect the safety of a hostage who is allowed to be removed from the presence of officers. The safety of hostages can be best assured by keeping them in the presence of officers and by preventing their removal by the suspect. There may be situations when the suspect is allowed to leave the area with the hostages, such as if there is a high potential for other persons in the area being injured.

Barricaded Situation:

Barricaded suspects pose an extreme danger, not only to officers who seek to arrest them but to other persons as well. Good judgment demands that a tactical plan is developed rather than immediately rushing a barricaded suspect. Certain preliminary procedures should be followed.

Guidelines:

The following guidelines will assist the initial responding officers in the handling of these types of situations:

- Secure the area so that the criminal(s) cannot escape. This may involve a request for additional units.
- Clear the area of bystanders and evacuate adjoining buildings and apartment if necessary and possible.
- Advise Communications of the situation and request the presence of the field supervisor.
- Maintain control of the situation until relieved by the field supervisor.
- Try to identify suspect and hostages.
- Try to find out if the suspect is armed/type/number.
- Try to find out whether the suspect has access to telephones, radios, television, etc.
- Try to determine the reason for suspect's actions.

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Domestic Violence Investigations

Officers will know and understand Policy Manual #320, Domestic Violence Response and the Santa Clara County Law Enforcement Domestic Violence Protocol.

It is the policy of the Morgan Hill Police Department that a complete investigation of all instances of reported domestic violence will be conducted. Victims of domestic violence will be treated with respect and dignity and will be given all available assistance by officers responding to an incident of domestic violence.

Generally, the beat officers will handle the initial investigation and follow-up that may include the interviewing of the victim, witnesses, and the suspect. The beat officer must also gather evidence, properly document the injuries and make an arrest(s) in cases that warrant such action. Officers should familiarize themselves with 13700 PC that lists various definitions that will aid in handling domestic violence types of cases.

Pertinent penal code violations:

Officers should know the below listed common Penal Code violations that can result during the investigation of a domestic violence situation:

136.1	Intimidating or dissuading a witness
148	Resisting arrest
166	Violation of a court order (generally non-domestic)
187	Murder
207	Kidnapping
236/237	False imprisonment
240	Assault
242	Battery
243(d)	Battery with severe injury
243(e)	Battery of a former spouse/fiancée, current/previous dating partners
245	Assault with a deadly weapon
246	Shooting at an inhabited dwelling
261.5	Unlawful sexual intercourse
262	Spousal rape
273a	Child Endangerment
273.5	Spousal/cohabiter abuse
273.6	Violation of a D.V. protective order
417	Brandishing a weapon
418	Forcible entry into a home of another
422	Terrorist threats
459	Burglary
591	Malicious destruction of a telephone
594(b)	Vandalism
602.5	Trespassing
603	Forcible entry with damage to property

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647(f)	Public drunkenness
646.9	Stalking
653m	Annoying telephone calls
21510	Possession of dangerous weapon
25400(a)	Possession of a concealed firearm
25580(a)	Possession of a loaded firearm

Patrol officer response/investigation:

The enforcement of laws relating to domestic violence incidents includes the following:

Felony:

An arrest shall be made in the event that there is reasonable cause to believe that a felony has occurred. This will be done irrespective of whether officers believe the offense may ultimately be prosecuted as a misdemeanor. All suspects arrested should be booked into the County Jail. The Morgan Hill Police Department and the other Law Enforcement agencies in the county have implemented a pro-arrest policy.

Misdemeanor:

The suspect shall be arrested in the event that a misdemeanor domestic violence incident occurs in an officer's presence. Such situations include, but are not limited to: an officer who witnesses an act of domestic violence, a violation of a verifiable restraining order, or illegal possession of a weapon.

When a misdemeanor domestic violence assault or battery been committed outside the officer's presence and the victim is the suspect's spouse, cohabitant, or parent of his, her child, with whom they have or have had a dating relationship, or the victim is age 65 or older (elder abuse) a peace officer may arrest the suspect without the need of a private person's arrest.

836(d) PC makes it possible for officers to arrest when the crime does not take place in their presence where both of the following circumstances apply.

- Officers have reasonable cause to believe that the person to be arrested has committed the assault or batter, whether or not it has in fact been committed.
- Officers make the arrest as soon as reasonable cause arises to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

If this criterion does not apply, the officer shall make a good faith effort to inform the complainant of his/her right to make a private person's arrest. Whenever possible, such discussion should be held out of the presence of the suspect. An officer shall not dissuade the complainant from making a private person's arrest. Refer to 142 PC for further information.

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If a victim complains only of a prior unreported incident and has no complaint of pain or physical injury at the time of the current report, officers shall make a good faith effort to inform the complainant of his/her right to make a private person's arrest (arrest must fall within the statute of limitations). If the complainant chooses not to exercise that right, officers shall submit a report to the District Attorney for review.

Handling of the incident:

The existence of the elements of a crime or the willingness of the victim to make a private person's arrest shall be the sole factors that determine the proper method of handling the incident. The following factors, for example, are not to influence an officer's decision to arrest in domestic violence incidents except as they relate to the elements of the crime:

- The relationship or marital status of the suspect and the victim, married, separated, or pending divorce
- The fact that the victim and suspect are of the same gender
- Whether or not the suspect lives on the premises with the complainant
- The existence or lack of a temporary restraining order
- The potential financial consequence of arrest
- The complainant's history or prior complaints
- Verbal assurances that violence will cease
- The complainant's emotional state
- Injuries are not visible
- The location of the incident, i.e., public or private
- Speculation that the complainant may not follow through with the criminal justice process or that the arrest may not lead to a conviction

Once a suspect is arrested on a misdemeanor offense, he/she should be booked into the county jail unless officers can identify a strong likelihood that the offense will not continue once they leave the scene and that there has been no prior history of domestic violence.

In determining whether prior violence has occurred, officers should interview the victim, suspect, children, and any available neighbor witnesses. A warrant check or criminal history check should also be conducted, if possible.

Officers shall make no statements that would tend to discourage a victim from reporting an act of domestic violence or requesting a private person's arrest.

Pursuant to Penal Code section 13700 et seq., officers responding to incidents of domestic violence shall prepare a Domestic Violence Incident Report irrespective of the wishes of the victim or the presence or absence of the suspect.

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Investigation of domestic violence cases:

The officer arriving at a domestic violence scene should conduct a thorough investigation and submit reports of all incidents of violence and all crimes related to domestic violence. If the incident occurred in another jurisdiction, the officer should contact that jurisdiction to determine which agency will investigate the incident.

The officer should also obtain authorization for release of medical records from a victim who received medical attention at a hospital.

When documenting a domestic violence-related crime. The officer must document who was present and/or residing in the home at the time the offense occurred.

Officers should not misinform victims of domestic violence that the victim has the authority to “press” charges or “drop” charges. If a victim states that prosecution is not desired, the victim should be told that the decision to prosecute is made by the District Attorney’s Office.

Enforcement of restraining orders:

Domestic violence restraining orders will be enforced by all law enforcement officers. Under Penal Code Section 273.6 (a), it is a misdemeanor to intentionally and knowingly violate any of the protective orders issued pursuant to the Uniform Parentage Act, Family Code, the Domestic Violence Prevention Act, the Workplace Violence Prevention Act, the Workplace Violence Safety Act or the Civil Harassment Prevention Act. Penal Code Section 273.6 (d) makes it a felony to violate a restraining order, with violence or threat of violence, after suffering a prior conviction for violation of Penal Code Section 273.6 within 7 years. The elements of the crime require willful disobedience of the terms of the order. Proof of Service shows that the suspect has the needed knowledge to be in violation of the order. Verbal notice by an officer of the terms of the Order is sufficient notice for the purpose of Section 273.6 PC (Family Code Section 6383(e)). Each agency shall ensure the original Proof of Service is filed with the court issuing the order and a copy retained with the police report.

Note: The terms and conditions of the restraining order remain enforceable, in spite of the acts of the victim or suspect, and may be changed only by order of the court.

Penal Code Section 273.6 shall apply to the following orders:

- An order enjoining any party from directly or indirectly contacting, telephoning, repeatedly contacting by mail with the intent to harass, molesting, attacking, striking, threatening, stalking, sexually assaulting, battering, harassing, or disturbing the peace of the other party or other named family and household member.
- An order excluding one party from the family dwelling or the dwelling of the other party or other named family and household manner.

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- An order enjoining a party from specified behavior which the court determined was necessary to effectuate the orders.

Stay Away Orders are typically ordered in domestic violence cases as a condition of a supervised own-recognition release and will be enforced by all law enforcement officers. Pretrial Services enters a teletype of the Stay Away Order into the SLETS System, which forwards the order to pertinent police agencies. This order is valid until the order is terminated or modified, at which time police agencies are once again notified via the SLETS System by Pretrial Services. Pretrial Services also takes responsibility for victim notification.

- Information in support of the need for a Stay Away Order should be included by the officer in the Probable Cause Affidavit.

Officers shall make arrests for any violation of the above sections that they observe. A victim still retains his/her right to make a private person's arrest. A misdemeanor warrantless arrest shall be made absent exigent circumstances if an officer has reasonable cause to believe that the person violated a restraining order outside his/her presence (836(c)(1) PC, 13701 PC).

If, at the scene of a domestic disturbance a person shows or informs the office the existence of a restraining order, it is crucial to establish the present status and terms of the order. Pursuant to Penal Code Section 13710, each Law Enforcement Agency shall maintain a complete and systematic record of all protection orders with respect to domestic violence incidents. These records shall include orders that have not yet been served, orders issued pursuant to Penal Code section 136.2 PC, restraining orders, and proofs of service in effect. This shall be used to inform law enforcement officers responding to domestic violence calls of the existence, terms, and effective dates of protection orders in effect. All civil restraining orders are in the statewide registry available to all law enforcement.

Upon request, law enforcement agencies shall serve the party to be restrained at the scene of a domestic violence incident or at any time the party is in custody. Once the order is served, an arrest may be made if the suspect refuses to comply with the terms of the order.

If the officer cannot verify the order, it may be enforced through a private person's arrest procedure. If it is the officer's opinion that the elements of the crime do not exist, then a release per Penal Code Section 849(b) PC might be considered.

If a Restraining Order violation has occurred and the suspect is not present, the officer will submit a crime report of the appropriate violation, and the officer will attempt to locate the suspect and arrest pursuant to Section 836(c) PC.

Under no circumstances shall an officer fail to prepare a crime report on a restraining order violation simply because the suspect is no longer present. A restraining order issued

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in a criminal case of domestic violence has precedence over any conflicting civil orders affecting the parties. (136.2(h)(2) PC).

When responding to any domestic violence incident, officers shall advise the victim of the availability of an Emergency Protective Restraining Order (EPRO).

In arrest situations, the following procedures should be implemented.

- When a person is arrested based upon allegation of a recent incident of abuse or threat of abuse and the officer can assert reasonable grounds to believe that a person is in immediate and present danger of domestic violence, or child abuse, or where a child is in immediate and present danger of being abducted by a parent or relative, which would require restraint if the defendant were to be released from custody (e.g., bail, or, 849, or no PC found), then the officer shall be required to explain the EPRO to the victim and determine if the victim desires one. In extraordinary circumstances where officers' fear for the safety of the victim, but the victim does not desire an EPRO, the officer may request one on behalf of the victim.
- If an EPRO is appropriate, the application should be completed. During normal court hours, the officer should contact the Family Court and ask to speak to the Supervising Judge. If no answer or during nighttime hours, weekends, and holidays the officer should call Communications and ask for the on-call Duty Judge to call back. The officer should leave the phone number where the officer can be reached. If the Duty Judge is not available, the officer should ask to speak to another Judge.
- The officer should not request a Stay Away Order or an EPRO on the probable cause affidavit. If officers feel an EPRO is required upon the suspect's release, follow the EPRO procedure. In order to have a Stay Away Order initiated as a condition of Supervised or, at the time of booking, information in support of the need for restraint should be included in the probable cause affidavit.
- The functions of each order do not necessarily overlap. The Supervised Own Recognizance Order provides a mechanism for supervision of a criminal defendant including ensuring court appearances, and it often includes drug and weapon conditions. The EPRO provides the victim with a way to enter the Civil Justice System with protection already in place.

In a non-arrest situation where an EPRO is desired, the officer should complete an application and contact the on-call Duty Judge or Family Court for evaluation and issuance of the EPRO.

- If issued, EPRO legislation requires officers to make a reasonable attempt to serve the restrained party. If he or she is present or can be readily contacted, serve the order and complete the Proof of Service on the form. Give the restrained person's

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copies to him or her. Document whether and how the order was served in the police report

- Once an EPRO is issued, it is the responsibility of the police agency to promptly file the EPRO with the Family Court at 170 Park Center Plaza, San Jose, California 95113.

Officers should enforce out-of-state protective or restraining orders that are presented to them if the orders appear valid on their face or contain both parties' name and have not yet expired (Full Faith and Credit Provision of the Violence Against Women Act).

Officers shall advise the victim of the availability of an Emergency Protective Restraining Order (EPRO). Generally, the victim should be advised to contact the Family Court during normal working hours to obtain the EPRO. In the event that the situation warrants the immediate issuance of an EPRO, officers can contact the duty judge and request that an order is issued.

If an officer has an EPRO issued, the legislation requires that the officer make a reasonable attempt to serve the restrained party. If he or she is present or can be readily contacted, serve the order. Give the restrained person's copies to him or her. Document whether and how the order was served in the offense report.

When a party in a domestic violence incident requests Morgan Hill Police Department assistance in removing a reasonable amount of personal property (e.g., a suitcase) to another location, an officer shall stand by a reasonable amount of time until the party has safely done so.

Upon request, law enforcement agencies shall serve the party to be restrained at the scene of a domestic violence incident or at any time the party is in custody. Once the order is served, an arrest may be made if the suspect refuses to comply with the terms of the order.

If a Restraining Order violation has occurred and the suspect is not present, officers will submit a crime report of the violation.

Military suspects:

All domestic violence incidents involving military suspects shall be handled according to this law enforcement protocol if:

- The incident occurred outside the boundaries of a military facility; and
- Local law enforcement agencies are called to assist in handling such an incident.

The intent of this policy is to eliminate all informal referrals, diversions, or report taking omissions in the handling of domestic violence incidents involving military personnel.

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No informal agreements with military police or a suspect's commanding officer shall take precedence over a suspect's arrest and prosecution by the non-military authorities.

For further information refer to the Santa Clara County Domestic Violence Protocol.

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Hate Crimes and Related Information

The following information regarding hate crimes will assist officers in recognizing, investigating, and properly documenting these types of crimes.

Definition of a Hate Crime. Sections 422.6, 422.75, and 13872 PC:

A bias-related incident is an act or threatened or attempted act by any person or group of persons against the person or property of another individual or group which in any way constitutes an expression of hostility toward the victim because of his or her race, religion, sexual orientation, national origin, disability, gender, or ethnicity. This includes, but not limited to, threatening phone calls, hate mail, physical assaults, vandalism, cross burnings, destruction of religious symbols, and fire bombings.

Fourteen Factors in Identifying Crimes as Bias-Related:

The motivation behind the act determines whether an incident is bias-related. Although no one factor is conclusive, the following criteria, applied singly or in combination, should be used to determine if probable cause exists to believe that an incident was motivated entirely or in part by animosity toward the victim because of his or her race, religion, sexual orientation, ethnicity, or national origin:

- Mere words, symbols, or acts which are or may be offensive to an identifiable group used by the perpetrator, or are they present as evidence? For example, is there a burning cross or a painted swastika, or were derogatory words or slurs or graffiti directed at a particular racial, religious, ethnic, or other minority group?
- Are the victim and the suspected perpetrator members of different racial, religious or ethnic groups?
- Has the victim or the victim's group been subjected to past incidents of a similar nature? Has there been tension or hostility between the victim's group and another particular racial, religious or ethnic group?
- Is the victim the only minority group member in the neighborhood or one of just a few such persons?
- Did the victim recently move into the area? Is the victim acquainted with neighbors and/or local community groups? Has there been evidence of hostility toward the victim by neighbors?
- When multiple incidents occur at the same time are all victims of the same race, ethnicity, religion, national origin or sexual orientation?
- Does a meaningful portion of the community perceive and respond to the situation as a bias-related incident?

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- Does the incident appear to be timed to coincide with a special holiday or date of significance, e.g., Martin Luther King Day, Rosh Hashanah?
- Has the victim been involved in recent public activity that would possibly make him/her a target? For example, has the victim been associated with any prominent recent or past activities relating to his/her race, ethnicity, religion or sexual orientation, e.g., NAACP, gay rights rally, demonstrations by or against the Ku Klux Klan?
- Has there been prior/recent news coverage of events of a similar nature?
- What were the manner and means of attack, e.g., color or paint, symbols or signs utilized, unusual spelling of the words used? Is the modus operandi similar to other documented incidents?
- Is there an ongoing neighborhood problem that may have initiated or contributed to the act, e.g., could the act be retribution or some conflict between neighbors or with area juveniles?
- Does the perpetrator responsible have a true understanding of the impact of the crime/incident on the victim or other group members? Are the perpetrators juveniles?
- Does the crime/incident indicate possible involvement by an organized hate group, e.g., Ku Klux Klan, American Nazi Party?

For example:

- Is the literature printed or handwritten? Does it contain an identifiable hate group symbol or insignia or hate group address?

Is there any documented or suspected organized hate group activity in the area?

Refer to Santa Clara County Police Chiefs' Association Law Enforcement Policy Statement for Hate Crimes for more specific information.

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Missing Persons

Reference:

Penal Code Section 14205, 207, 277, 278, 278.5
Policy Manual 332

The Morgan Hill Police Department has a responsibility to locate individuals whose welfare or safety is threatened and to ensure the welfare of those individuals when found. Therefore, the Morgan Hill Police Department maintains procedures, which ensure a timely and efficient investigative process pertaining to reports of missing persons, and gives priority to handling missing persons reports over property type crimes.

Missing Persons: A missing person is defined as any person who is reported to a law enforcement agency until the person is located or determined to be a voluntary missing adult. Missing persons may include any of the following:

- Involuntarily missing: Includes the involuntary abduction of an adult, the involuntary abduction of a child, children who have been rejected by their families, missing adults or children who have left and are viewed as unable to care for themselves.
- Parental abduction: Abduction of a child by a non-custodial parent or their agent.
- Runaway: Any child who is voluntarily missing.
- Unknown missing: Cases where there are insufficient facts to determine the missing person's disposition.
- Chronic: Any voluntarily missing child with a history of running away two or more times in a one month period.

Reporting:

All reports of missing persons regardless of jurisdiction will be made immediately. The officer receiving the report will not instruct the reporting party to wait a specified time prior to making the report. In cases, where an outside jurisdiction should be involved, officers will coordinate the investigation with that jurisdiction. The reporting officer will complete a missing persons report indicating any available information that may help in locating the person.

If there are multiple missing persons or runaways involved, a separate report and incident number must be completed for each person.

Radio Broadcasts: It is the responsibility of the officer taking the original report to contact Communications with the necessary information for the broadcasting of an All-Points Bulletin (APB). The APB will include all information pertaining to the missing

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person and/or vehicles associated with the missing person. The date/time and dispatcher who received this information from the officer will be indicated in the appropriate space on the report form.

Teletype Notification:

The officer taking the original report will also contact the Morgan Hill Police Department Communications and have a Teletype initiated. The Teletype will also be directed to the appropriate local, state, and national police agencies where the missing person might be headed. The records clerk name that received this information will be indicated in the appropriate space on the report form.

Supervisor Notification:

In all cases, the field supervisor should be immediately made aware of all pertinent facts. The field supervisor will use his/her judgment in initiating a search and utilizing the resources of allied agencies.

Missing Person Cancellation:

When officers locate or are advised that a reported missing person has been located, he/she should do the following:

- Confirm that a missing person report has been filed with a law enforcement agency and check on the missing person's welfare.
- Notify the agency that filed the original missing person report that the person has been located and what, if any, action is to be taken (EPS, hospital, jail, release, Children's Shelter, etc.).
- Cancel APB and Teletype on our cases and complete a cancellation form.

Disposition of Missing Persons:

Neither the Children's Shelter or Juvenile hall accept runaway juveniles. Other resources (Bill Wilson House, Alum Rock Counseling) should be contacted.

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Moving and Parking Citations

The Morgan Hill Police Department uses two different types of citations: Traffic citations and Parking Citations. Each has a specific purpose, and the citations are not interchangeable in their use

- NOTE: FIFTH AMENDMENT PROTECTION: “No person shall be subject for the same offense to be twice put in jeopardy.” In other words, if an officer books a suspect in the jail for DUI and also cites and releases that driver for an on-view 12500(a) CVC he/she has created a “double jeopardy” situation. The driver could go to court and enter a guilty plea on the 12500(a) charge. Once a guilty plea is entered regarding this incident the driver could not be prosecuted for the DUI charge. A subject cannot be prosecuted for the same incident twice.
- TRAFFIC CITATIONS: The Traffic citation is used for the issuance of traffic violations and adult misdemeanor offenses. These citations can be easily distinguished from the parking citation because they have a completely different format and the violator’s copy is a single yellow sheet (see Parking Citations). Each area of the citation must be properly completed with the violator being given his/her copy after it is signed.
- PARKING CITATIONS: The Parking citation is used only for parking violations.
- Parking cites only require information for the vehicle and does not require information on the driver (no driver signature is required). The violator’s copy is a yellow envelope and is usually left on the windshield of the violator’s vehicle. **Parking violations cannot be written on Traffic citations.**
- AMENDING/DISMISSING CITATIONS: There will be occasions when a citation must be amended or dismissed after it has been written. The officer must use the appropriate amendment or dismissal form and forward it to the watch commander for action.

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Misdemeanor Citations

The Traffic Citation form is used for issuing a Notice To Appear/Citation in misdemeanor cases. An Incident Report (Case) number must be indicated in the appropriate box on this citation, and the violator must be given a court date and time for the appropriate court of jurisdiction. An Incident Report will be written in all instances when a misdemeanor citation is issued.

According to 853.6 PC, a peace officer shall use the written notice to appear procedure set forth in that section for any misdemeanor offense in which the officer has arrested a person without a warrant pursuant to Section 836 PC or in which he or she has taken custody of a person pursuant to Section 847 PC. The Morgan Hill Police Department will use the traffic citation form for this purpose.

Whenever any person is arrested by an officer for a misdemeanor, that person shall be released according to the procedures set forth in 853.6 PC unless one of the following is a reason for non-release, in which case the arresting officer may release the person, or the arresting officer shall indicate, on a form to be established by his or her employing law enforcement agency (Pre-Booking Form: box labeled 853.6 PC), which of the following was a reason for the non-release:

- The person arrested was so intoxicated that he or she could have been a danger to himself or herself or to others.
- The person arrested required medical examination or medical care or was otherwise unable to care for his or her own safety.
- The person was arrested under one or more of the circumstances listed in Sections 40302 and 40303 of the Vehicle Code.
- There were one or more outstanding arrest warrants for the person.
- The person could not provide satisfactory evidence of personal identification.
- The prosecution of the offense or offenses for which the person was arrested, or the prosecution of any other offense or offenses, would be jeopardized by immediate release of the person arrested.
- There was a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the person arrested.
- The person arrested demanded to be taken before a magistrate or refused to sign the notice to appear.
- There is reason to believe that the person would not appear at the time and place specified in the notice. The basis for this determination shall be specifically stated.

In all cases in which an officer has issued a criminal citation for a misdemeanor violation in lieu of a physical arrest, and the defendant is to be booked at a later time, the officer will instruct the defendant to appear at the Morgan Hill Police Department Records Section at the appropriate time for fingerprinting and photographs.

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Storing and Impounding Vehicles

Refer to Policy Manual 510, 511 for specific information on this topic.

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Driving Under Influence Investigations

Drivers who operate their vehicles while under the influence of alcohol and/or drugs are a danger to society. The Morgan Hill Police Department policy is to arrest any persons that are suspected of operating a vehicle in this manner.

Statistical Information:

- Approximately 21% of all drivers involved in fatal crashes in 1993 were intoxicated at the time of their crash (22.1% in 1992). (NHTSA, 1994).
- In the past decade, four times as many Americans died in drunk driving crashes as were killed in the Vietnam War.
- Arrests for DUI accounted for the highest (1.6 million) arrest count among the specific categories in 1992, followed by larceny-theft (1.5) million and drug abuse violations (1.1 million). (FBI, 1993).
- Alcohol-related crashes cost society \$1.00 per drink or \$2.20 per ounce of alcohol consumed. This figure includes drink consumed at home. (Miller, 1994).

Alcohol in the System:

- Most expert witnesses from the County Laboratory will testify that an adult will raise his/her blood alcohol level by:
 - .02% or .03% from a 12 oz. drink of beer
 - .03% from a 1 oz. shot of hard liquor or a mixed drink
- Most adults excrete .02% blood alcohol every hour (some experts testify .015% every hour).
- Most adults have a peak point of absorption 45 minutes after alcohol ingestion.
- Alcohol affects the body:
 - Vision Impaired - In some subjects with blood alcohol as low as .04% and substantially impaired in all subjects with blood alcohol (BAC) above .08%, one effect is to reduce width of vision (tunnel vision).
 - Muscular Control – Disruption in some individuals with a BAC as low as .03%. Clumsiness was seen in all drinkers when BAC reached .10%.
 - High blood alcohol
 - .20% - difficulty controlling emotions
 - .30% - sights and sounds distorted, possible unconsciousness
 - .35 to 50% - loses perception ability, possible coma
 - .50% - brain centers controlling heart and breathing affected, death.
- Tolerance - ability to adapt to a foreign chemical, larger portions needed to produce the same effect. Enables “Masking.”

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- A common defense is based on rising blood alcohol.

Observations:

- Erratic behavior or illegal maneuvers of the vehicle.
- How far vehicle traveled after stop initiated.
- Does the driver smell of alcohol or have other objective symptoms of being under the influence?
- Results of field sobriety tests (FST's)
- Eye coordination
- PAS test results if administered.
- AIB process

Driving Indicators:

When a vehicle code is violated, Law Enforcement is given authority to detain the driver and vehicle for the limited purpose of issuing a citation. If probable cause exists leading an officer to believe the driver is intoxicated, that officer can begin a DUI investigation.

What happens when no vehicle code has been violated? What allows an officer to stop a vehicle that weaves continuously within a lane, or contact a driver that repeatedly applies brakes for no apparent reason?

When an officer can cite in court training and experience describing legal but impaired driving, he/she is able to make stops on vehicles displaying only impaired driving.

Recording the Stop:

- Time, weather, vehicle traffic, pedestrian traffic
- The patrol vehicle and its location at first observation
- Suspect vehicle description and its location at first observation
- All illegal and impaired driving (include mechanical violations)
- Speed stops (special language)
- Legal driving that will be brought into court (red lights, speed)

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- Location the stop was made
- Unusual parking by the suspect vehicle

Objective Indicators:

- Watery and bloodshot eyes:
 - Most people intoxicated by alcohol get watery and bloodshot eyes. There are other causes; however, including marijuana smoking, allergies, and injury.
- Odor of an alcoholic beverage:
 - Alcohol has no smell. Officers can testify to the type of beverage based on the other components (beer hops, wine grapes), but it is usually safer just to say, “I could smell an odor of an alcoholic beverage.”
- Slurred speech:
 - Testimony regarding “slurred speech” is usually followed up by the following defense questions:
 - “Are you familiar with the language or dialect from which the suspect originates?”
 - “Did you know what his speech sounds like every day. If not, how can you say his speech is more slurred than normal?”
 - “What exact words did he slur, and how did he slur them?”
- Impaired dexterity:
 - A great time to observe dexterity occurs when the suspect is locating his driver’s license. Be specific when describing the suspect’s difficulty.
- Impaired balance:
 - Record the suspect’s difficulty exiting the vehicle and approaching the testing area. Be specific. Defense will enter evidence of prior injuries.
- Nystagmus:
 - Definition: Involuntary eye movement when following a stimulus. Nystagmus can be vertical, horizontal or circular. HGN refers to “horizontal gaze nystagmus.”
 - “Point of Onset” is the location on the horizontal path where the eyes move involuntarily (working toward the side of the head).
 - Nystagmus is the one test the suspect cannot practice or mask (usually).
 - Nystagmus can be performed while the suspect is seated in his vehicle.
 - Use proper angle, path, and lighting for best “point of onset.”
 - Do not confuse “point of onset” with “rough pursuit” or “endpoint nystagmus.”
 - Nystagmus is present as a normal condition in a percentage of the population.
 - Nystagmus can be affected by:
 - Drugs (including barbiturates and marijuana)
 - Injuries to the eye

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- Disease
- Nervous and Fatigue
- Tolerance
- Vertical Gaze Nystagmus can be produced by high blood alcohol levels
- Current case law prohibits allowing Nystagmus as testimony gauging BAC.
- Orientation:
 - Determine if the suspect is familiar with the area
 - Ask the suspect if he knows the time (without looking at his watch) and his location
 - Repeat the questions at A.I.B.

Field Sobriety Tests (FSTs):

- The five (5) most important questions -Pre Miranda and Pre FST:
 - How many alcoholic beverages did you drink?
 - When did you finish your last drink?
 - Have you taken any legal medication or illegal drugs?
 - Do you wear corrective lenses?
 - Do you have any physical problems that affect your balance?
- Rhomberg (standing modified):
 - Description- During the explanation and demonstration of this test, have the suspect stand upright with heels and toes together and his/her hands at his/her sides. This is the “Rhomberg Position.” When the test begins, the suspect tilts his/her head back and closes his/her eyes. Tell the suspect to keep his/her eyes closed for what the suspect believes is 30 seconds, and to say when he/she believes he has finished.
 - Validity- The Rhomberg test is an excellent way of determining possible drug and alcohol influence. Depressants and Opiates can cause slow time perception (results greater than 30 seconds). Stimulants and PCP can cause fast time perception (results less than 30 seconds). Alcohol, Marijuana, and Hallucinogens can cause distorted time perception (unpredictable).
 - Documentation- Document as needed in the incident report.
 - Courtroom- There have been few challenges to the Rhomberg test. It is not one of the tests recommended by NHTSA.
- Finger dexterity:
 - Description- Ask which is the suspect’s strong hand. Ask if there are any medical problems with the suspect’s strong hand. Determine if the suspect is comfortable counting in English. Demonstrate counting forward and backward, placing the thumb tip to the fingertips, starting with the thumb to forefinger. Tell the suspect to complete the cycle 3 times. Demonstrate the complete test (all 3 cycles) to people who demonstrate difficulty understanding.

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- Validity- This test effectively demonstrates the ability of a suspect to count and coordinate finger movement at the same time. This is one of the more difficult tests for people with near .08% BAC.
- Documentation- Document as needed in the incident report. The Morgan Hill Police Department requires a written description. Record what hand the suspect used for the test.
- Courtroom- There have been few local challenges to the Finger Dexterity test. The test has been routinely challenged in Southern California. It is not one of the tests recommended by NHTSA.
- Leg raise (balance):
 - Description- Tell the suspect to stand up and to keep his/her hands to his side. Have the suspect raise one foot approximately 6 inches from the ground, keeping the leg straight at the knee. Ask the suspect to count out loud to 30 (1001, 1002...). Officers can repeat the process on the opposite leg. Record what leg the suspect raised first.
 - Validity- Suspects below .10% BAL can often stand on one leg for 20 to 25 seconds. Suspects near .08% BAL have difficulty completing the test without weaving or raising their arms.
 - Documentation- Document as needed in the incident report. The Morgan Hill Police Department requires a written description. Record what leg the suspect used for the test.
 - Courtroom - The leg raise is endorsed by the NHTSA.
- Line walk:
 - Description- Find a straight “painted” line if possible. Otherwise, tell the suspect walk in as straight of a line as possible using a reference (curb, concrete seam, etc.). Tell the suspect to place his/her right foot on the line and place the heel of his/her left foot against the toes of his/her right foot. Tell the suspect to keep his/her arms to his side. While the suspect maintains the position, describe the rest of the test to the suspect.
 - Tell the suspect to walk forward 9 steps, placing the heel of the forward foot against the toe of the rear foot each time. Tell the suspect to count the steps out loud.
 - Tell the suspect to turn the opposite direction, leaving the forward foot on the line and using small steps to complete the half circle. Tell the suspect to continue walking forward 9 steps as described before.
 - Validity- This is a difficult test for suspects with above .10% BAL. Having suspect stand in place with his/her feet “in line” prior to the test is effective for lower BAC’s and for officer safety during the demonstration.
 - Documentation- Document as needed in the incident report. The Morgan Hill Police Department requires a written description and had room for a diagram on page 2 of the DUI face sheet.
 - Courtroom- The Line Walk is recommended by NHTSA and has been used locally with success. Defense attorneys enjoy making the Officer record tests in court, which can show the approximate nature of recording the test results. This is also a difficult test to perform on the carpeted floor of a courtroom.

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- Finger to Nose (Coordination):
 - Description- Tell the suspect to stand in the Rhomberg position. Tell the suspect to make a fist with both hands, and then extend both index fingers. The officer will demonstrate by touching his/her own nose bringing each arm forward (not from the side). Tell the suspect to tilt his/her head back and close his/her eyes. Tell the suspect to touch his/her nose tip with the specified finger then return his/her hand to his/her side. Tell the suspect to begin the test and complete the test in the following order, “left, right, left, right, left.”
 - Bring the arm forward in less natural than from the side. This makes the test more difficult for lower BAC’s.
 - Documentation- Document as needed in the incident report. The Morgan Hill Police Department requires a written description.
 - Courtroom- The Line Walk is recommended by NHTSA, but is not used locally with any regularity.
- Basic Do’s and Do-Not’s with FSTs:
 - Do not comment on how the suspect did on a test (vague “as” or “not as” demonstrated is okay after the tests have been completed).
 - Be specific about the location the FSTs were performed. The defense will ask officers to describe the scene (lighting, weather, slope, construction of the ground, etc.).
 - Always conduct the same tests in the same way.
 - Give the suspect the option to remove their shoes. Insist if they are wearing high heels.
 - Do not administer balance tests on people complaining of an injury.

Preliminary Alcohol Screening Test (PAS):

Description: The PAS tester is a handheld breath analyzer. The machine gives a 3 decimal reading that tends to reflect an accurate estimation of a suspect’s BAC. The PAS tester is easily damaged by smoke and can be susceptible to deviations based on “breath alcohol.” The tester must also have its calibration checked every week, and a log must be kept documenting the results.

Past Procedure: The PAS tester was used only after all FSTs have been completed (except for some accident investigations). The officer would tell the suspect he/she did not have to complete the test and the test was not considered a chemical test per CVC 23157. The officer would record the results for later use in court.

Present Procedure: Current legislation (January 1997) has moved the PAS testing device into the category of an FST. This would mean an officer could choose to give the suspect a PAS test prior to other FSTs. The fallacy in this procedure occurs in court when the defense shows how the officer was biased by knowledge of the PAS results. The defense will attempt to show that officer “skewed” the remaining FST observations, perhaps unknowingly, to match the BAC shown on the PAS.

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Documentation: Officers are required to include the PAS serial number, the temperature, and the results of the test in the DUI report.

Court: The PAS testing device is not currently well received in court. Although the PAS devices used by the Morgan Hill Police Department have been recommended by the NHTSA, there has not been sufficient communication to qualify lab personnel as “experts” in the use of the PAS. An expert witness would be necessary if the PAS was challenged in court. The California Highway Patrol uses the same PAS device, but have their own expert witnesses available to testify.

Currently, the safest way to testify to the use of the PAS is to show that the officer made the decision to arrest prior to discovering the PAS results. The use of the PAS is then described as offering the suspect the chance to leave the scene (without arrest) based on low blood alcohol (when the FSTs indicate higher blood alcohol).

Witnesses:

- Witness Passengers:
 - Record what seat they occupied
 - Record their name, age, address and phone number
 - Ask them:
 - When they were with the driver
 - How much they saw the driver drink
 - Provide safe transport to shelter and a phone if adults
 - Unite them with their parents if juveniles
 - Complete FSTs on passengers if they want to drive
- Private Person Arrests:
 - Determine if the elements are present for arrest
 - Record the citizen’s name, age, address, and phone number
 - Have the citizen place the suspect under Private Person’s Arrest (per PC 837) if the arrest has not been implied. An implied arrest can include the citizen calling 911, identifying the suspect, and asking the officer if he intends to arrest, etc.
 - Anonymous callers cannot be used as a witness to driving or to enact a private person’s arrest.
 - Keep 40300.5 CVC in mind

Arrest and Transportation:

Remember officer safety when placing the person under arrest. Suspects often fight or flee at the moment they realize they are about to be arrested or handcuffed.

Tell the suspect he is being arrested and notify him that he has two choices for a chemical test (CVC 23157). Sometimes it is better to notify him of his choice just prior to the test. There are several problems involving the choice of a chemical test:

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- Failure to notify per CVC 27157
- Recommending a test
- When a test is not available (including hospitalization)
- When drugs are involved
- When all tests are refused

Alcohol Investigation Bureau (AIB):

- Alcohol Investigation Bureau
 - Breathalyzer test- The Morgan Hill Police Department utilizes the Drager Intoxylizer Per Article 17 of the California Evidence Code, the operator (or officer) must observe the suspect for 15 minutes prior to the test. Locally, it is allowable for officers to be completing forms, as long as they can hear and watch the suspect. The 15-minute interval is designed to ensure the suspect does not drink, eat, burp, or vomit. Breath alcohol or poor records are the usual defense to the test.
 - Urine test- The suspect urinates into the first “Void” bottle. The officer must ask the suspect if he/she completely voided his/her bladder. Twenty minutes later (or a little longer), the suspect must urinate into a second “Sample” bottle. Both bottles must be obtained for a completed alcohol test. If the suspect is being arrested for DUI drugs only, one bottle will suffice. Per 23157 CVC, a urine test is no longer an option for chemical tests for DUI unless either blood or breath tests are unavailable or there is a specified condition that warrants using the urine test. Contaminants in urine are the usual defense to the test.
 - Blood Test - Officers should observe the blood draw. That officer must initial the vial of blood. Blood fermentation is the usual defense of the test.
- FSTs and Miranda:
 - Miranda questions - Waiting until after the chemical test is the best practice to follow as a suspect can refuse to answer questions but may not refuse to complete a chemical test. When the suspect answers the questions, record his/her responses, even if they do not make sense.

Report Writing:

- Tips before starting the report:
 - The report cannot list every detail during the incident. The report is designed to communicate the elements of the offense and to refresh memory for court.
 - The report should not only list the negative points. If the driver successfully passed a test or stopped at a red light, say so.
 - Most DUIs are impaired, not drunk. Remember there is a difference between impaired and drunk.
- DUI Report Narrative :
 - DUI Narrative Check-list :

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- Probable Cause
 - Date and time
 - The officer's status, activity, and location
 - Probable cause for a traffic stop (the more, the better)
 - Subject's
 - Complete vehicle description
 - Direction of travel
 - Any / all traffic violations
 - Anything unusual / significant
- Traffic Stop
 - Any actions taken to stop the vehicle
 - Any unusual actions after activating lights/siren.
 - Location and manner of the stop
- Approach
 - Any actions taken in approaching the subject
 - Any actions by the subject
- Introduction
 - Make a reference to the introduction
 - Any questions asked of the suspect (explain driving)
 - Any responses by the suspect
- Initial Observations
 - Any observations relative to impairment
 - Justify the DUI investigation
- Pre-Miranda Questions
 - Any responses to the interview questions listed on page 2 of the DUI face sheet, especially the 5 pre-FST questions discussed earlier.
- Field Sobriety Tests:
 - Describe location and conditions where FST's were conducted.
 - Describe how the tests were administered
- Conclusions:
 - "I concluded (name) was driving a motor vehicle while under the influence of alcohol."
- Notification of Arrest:
 - "I told (name) he was under arrest for DUI."
- Physical Arrest:
 - "I handcuffed, searched, and placed (name) in (location)."
- Interview of possible witnesses:
 - Names, ages, addresses, phone numbers, and statements.
 - Disposition of witnesses if applicable
- Disposition of vehicle
 - Tow company or
 - Left vehicle at the scene per the owner's request
- Chemical Tests:
 - Response to the admonishment of 3 choices
 - Location where the test was taken
 - Lab personnel or officers present for the test

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- Chain of custody for test results
- Continued Observation
 - Describe significant changes in emotional or physical symptoms.
- Post Miranda Questions:
 - Describe how the suspect feels in his own words
 - Does the suspect feel drunk or impaired
- Booking
 - Describe anything significant about the booking process.

Refusals (FST'S AND CHEMICAL TESTS):

- F.S.T. Refusals: With sufficient objective symptoms, an officer can arrest a suspect for DUI when the suspect refuses or is unable to complete FST's.
- Chemical Test Refusals
 - Read the CVC 13353 admonishment found on the back of the DS 367 form.
 - Record refusal statements by the suspect
 - Determine if blood should be forced ("force not shocking to court conscience")
 - Examples of refusals
 - Demanding an attorney
 - Silence
 - Failure to complete test
 - Any conditions demanded by the suspect
 - Destruction of results by the suspect

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Driver Under Age 21:

- Minors with blood alcohol .01 to .04
 - Take their driver's license
 - Complete the DS 367M form
 - Tow the vehicle per CVC 22651(h)(2) and department policy
- Minor with blood alcohol .05 to .07
 - Take their driver's license
 - Complete a full DUI investigation only if there are good driving indicators
 - Tow the vehicle per CVC 22651(h)(2) and department policy
 - Release the minor with a CVC 23140 citation
- Minors with blood alcohol .08 and above
 - Take their driver's license
 - Complete a full DUI investigation
 - Tow the vehicle per CVC 22651(h)(2) and department policy
 - Cite out to a parent/legal guardian on a JCR CVC 231252(b) & CVC 23140
- Minor's driving demonstrates the influence of alcohol (any BAC)
 - Take their driver's license
 - Complete a full DUI investigation
 - Tow the vehicle per CVC 22651(h)(1) and department policy
 - Book into Juvenile Hall under CVC 23152(a) or cite out to parent/legal guardian on a JCR

Vehicle Code Section 40300.5-Definition:

- Notwithstanding any other provision of law, a peace officer may, without a warrant, arrest a person under the following circumstances:
 - Involved in a traffic accident
 - Observed in or about a vehicle blocking a roadway
 - Not to be apprehended unless immediately arrested
 - Will cause self-injury or property damage unless immediately arrested
 - May destroy or conceal evidence of a crime unless immediately arrested.

When to 849(b) PC in Lieu of Booking:

A driver that is involved in an accident and has medical problems that will require an extensive hospital stay can be released per 849(b) PC with the approval of the field supervisor if the only crime is a misdemeanor. The Incident or Accident Report will indicate the reason(s) that this course of action was taken in lieu of booking into jail.

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Appropriate CVC Sections:

- 23152: DUI BLOOD ALCOHOL PERCENTAGE; PRESUMPTIONS (M):
 - (a) It is unlawful for any person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, to drive a vehicle.
 - (b) It is unlawful for any person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.
 - (c) It is unlawful for any person who is addicted to the use of any drug to drive a vehicle.
- 23153: DUI ALCOHOL OR DRUGS CAUSING INJURY (F):
 - (a) It is unlawful for any person, while under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, to drive a vehicle and concurrently do any act forbidden by law, which act or neglect proximately causes bodily injury to any person other than the driver.
 - (b) It is unlawful for any person, while having 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.
- 23550(a): DUI, FOURTH OR SUBSEQUENT OFFENSE WITHIN TEN YEARS (F):

(a) If any person is convicted of a violation of Section 23152 and the offense occurred within seven years of three or more separate violations of Section 23103, as specified in Section 23103.5, or Section 23152 or 23153, or any combination thereof, which resulted in convictions, that person shall be punished by imprisonment in the state prison, or in the county jail for not less than 180 days nor more than one year, and by a fine or not less than three hundred-ninety dollars (\$390) nor more than one thousand dollars (\$1000). The privilege to operate a motor vehicle shall be revoked.

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Interviews and Interrogations

Officers will remain alert to gather information from witnesses, suspects, or arrestees that will help in the solution of crimes. However, it is necessary to be equally alert to ensure that interviews and interrogations conform to legal standards. Carelessness can very easily result in otherwise good testimonial evidence being declared inadmissible. Therefore, officers will interview, interrogate or otherwise question persons in accordance with the law and established procedures of the Department.

Interviews/Interrogations – Definition and Purposes:

The task of gathering information from individuals involves the use of two general techniques: interviews and/or interrogations. For purposes of this manual, the definition of each technique is as follows:

- Interviews: The process by which an officer obtains information from a cooperative individual who is not responsible for the incident under investigation, but who has personal knowledge of circumstances, or facts that are of interest to the investigation.
- Interrogations: The process by which an officer obtains information from an uncooperative individual who is either a suspect, witness or victim of the incident under investigation.

An interview is conducted in order to collect any facts relating to an incident, to substantiate information obtained from other sources, or to provide additional information pertaining to the incident under investigation.

An interrogation is conducted in order to establish the extent of involvement of a particular person suspected of committing a crime and/or to obtain information from uncooperative individuals who have knowledge of the incident under investigation.

Interviews – Legal Restrictions:

When an officer has not arrested an individual or otherwise taken the individual into “custody” in a manner which restricts the individual’s freedom or ability to discontinue the conversation, then the officer may ask whatever questions are necessary and pertinent. The key in this circumstance is custody: where there is no “custody” the law places no restrictions on questioning. An example of an unrestricted situation is when an officer talks to an individual in a voluntary non-custodial setting about crime conditions or leads.

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Interviews – Authority and Method:

Officers should when possible, interview any person who may have the potential to supply information that relates to an incident under investigation. Interviews should be conducted at a place that is convenient and familiar to the person being interviewed as soon after the incident as is possible and practical. Officers should strive to conduct interviews in a manner that is low pressure, informal, and causes the least amount of inconvenience to the person being interviewed.

Interrogations – Legal Restrictions:

When an officer acts to exert authority and/or control over a person in a manner which restricts the person's freedom to act, then a custody situation exists, and legal restraints on questioning arise to protect the person's rights in regards to self-incrimination and assistance of counsel. The point where custody occurs is determined by the circumstances surrounding the interrogation as interpreted by a "prudent" person. The beliefs or intent of the officer and/or the suspect are not considered. Factors that are considered, when applying the "prudent person" test, are as follows:

- Place of Questioning: When conducted at a police station, in police vehicles, at a jail, or in a prosecutor's office, such circumstances may lead to the conclusion that "custody" has occurred.
- Time of Questioning: When conducted during odd hours.
- Persons Present: The removal of a person from the presence of family, friends, or the presence of several officers or police, may indicate a "custody" interrogation.
- Physical Restraints Used: Any type of physical restraint invariably leads to a finding of "custody."
- Orders to Perform Tasks Not Required: Any orders by the officer to do something that the law does not require is indicative of custody.
- Length and Form of Questioning: Lengthy questioning consisting of accusatory statements, confrontation with witnesses or evidence, and leading questions may lead to a finding of "custody."
- Demeanor of Officer: When an officer is accusatory and confronts a person with alleged guilt, the "custody" finding may occur.

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Investigative Questioning:

Officers may question people for purposes of obtaining information such as name, address, telephone numbers, occupation and other identifying data without advising such persons of their constitutional rights. In addition, suspicious persons may also be asked to explain their presence and conduct without an officer having to advise them of their rights.

However, whenever probable cause to arrest develops and the officer intends to restrict the freedom of the suspect while continuing to ask questions, or the questioning has become sustained and coercive rather than brief and casual, advisement of rights will be conducted. The point where questioning becomes “sustained and coercive” is difficult to establish. However, when the questions begin to relate to a specific crime, and the questioning has become accusatory and continuous, then a “sustained and coercive” condition probably exists.

“Custody” of Juveniles:

Juveniles will be advised, as soon as possible and when practical, of their Miranda rights when taken into custody for any one of the following:

- A violation of 601 or 602 Welfare and Institutions Code
- A violation of a court order
- Escape from a court-ordered detention facility or place of commitment

“Custody” of Adults:

Whenever officers arrest, or otherwise take “custody” of an adult person, and they intend to question such person about incidents, actions, or conduct which is criminal in nature, then the person arrested will be advised of their Miranda rights.

Warning Prior to Interrogation:

The Morgan Hill Police Department issued Miranda Warning card should be used when advising the person of their constitutional rights. The information on this card should be read out loud to the suspect.

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Waiver of Miranda Rights:

Before statements made by suspects become admissible in court, the prosecution must offer evidence to prove the suspects were not only advised of their rights as outlined above but also that the waiver was provided under the following conditions:

- Voluntary
- Knowingly
- Intelligently

To secure a waiver, the following questions should be asked:

- Do you understand each of these rights I have explained to you?
- Do you want to talk about what happened?

An affirmative reply may be obtained from suspects before questioning begins. Circumstances that establish an “Affirmative Reply” include, but are not limited to, the following:

- Formal Waiver: Where suspects state orally and unequivocally that they understand their rights and wish to talk.
- Waiver Followed By Statement: An acknowledgment by a suspect that such suspect understands, followed closely by a statement, is held to be a waiver.
- Nonverbal Waivers: Nods and shrugs seem to be sufficient, absent coercion, Officers should, however, strive for a verbal response. Gestures are subject to different interpretations, and leave too much room for interpretation.
- Written Waivers: The signing of a written waiver is a good waiver if the suspect is literate.
- Implied Waivers: The suspect says nothing, but the officer asks questions and gets replies without objections from the suspect.

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Tape Recording of Conversations:

Officers may make tape recordings of conversations when the conversation is part of a criminal investigation. The tape recording will be booked into evidence regardless of its evidentiary value.

The Incident Report includes the following details of the recording:

- An indication that a recording was made
- The date and time of the recording
- The person(s) recorded
- The reason for the recording

Refer to Santa Clara County Police Chiefs' Association Recording of Violent Suspect Statement Protocol for additional information or recording suspects' statements.

Interview and Interrogation Techniques:

To effectively solicit information the officer must master his/her interview and interrogation techniques. Below are some helpful techniques to help become proficient in these areas.

- Listening: One of the most significant things people can do to communicate effectively is to listen actively. Some say the fact that people have two ears and one mouth illustrates that they should listen twice as much as they talk. Hearing - sometimes called passive listening - is easy; let the ears do the work they were made to do. On the other hand, active listening is harder to do and requires that the listener become more involved than simply hearing the speaker. What follows is a review of some principles that assist in sharpening active listening skills.
- Keys to effective listening:
 - Body language that demonstrates interest
 - Facing the person
 - Making good eye contact
 - Responsive facial expressions
 - Nodding to show encouragement

Whatever the motive for listening is, the purpose is to gather information. As an investigator, the officer may be trying to get information from a victim or witness or obtain a confession from a suspect. It really doesn't matter why the officer is listening; the skills needed for success are the same. If the officer does anything that causes the speaker to stop speaking, then active listening has ended, and the interview is over.

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Child Abuse Reporting

Introduction:

Per Penal Code section 11169: It is mandatory to report to the Department of Justice every case of “known or suspected child abuse which is determined, not to be unfounded.” Failure to comply with this state law is a misdemeanor.

Child Abuse Defined (11165.6 PC):

“Child Abuse” means a physical injury which is inflicted by other than accidental means on a child by another person. “Child Abuse” also means the sexual abuse of a child or any act or omission prescribed by section 273a PC (willful cruelty or unjustifiable punishment of a child) or 273d PC (unlawful corporal punishment or injury). “Child Abuse” also means the neglect of a child or abuse in out-of-home care. “Child Abuse” does not mean a mutual affray between minors.

Terms Defined:

Child:	Any person under the age of 18 years.
Sexual Abuse:	See 11165.1 PC
Neglect:	See 11165.3 PC
Willful cruelty or unjustifiable punishment	See 11165.3 PC
Unlawful corporal punishment or injury	See 11165.4 PC

Reporting – Physical Child Abuse and Neglect:

The officer shall write an Incident Report on all cases of suspected child abuse whether or not it is determined to be unfounded. The officer shall also contact Child Protective Services (CPS) by telephone in all such cases when CPS is not the reporting party.

A Juvenile Contact Report (J.C.R.) is only necessary in these cases when the child is taken to the Children’s Shelter or is taken into custody in these types of cases.

Officers will know and understand the Santa Clara County Law Enforcement Child Abuse Protocol and Policy Manual 330. These documents are the source of the Morgan Hill Police Department Child Abuse philosophy.

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Elder and Dependent Adult Abuse

Officers will know and understand the Santa Clara County Law Enforcement Elder and Dependent Adult Abuse Protocol and Policy Manual 326. These documents are the source of the Morgan Hill Police Department Elder and Dependent Adult Abuse philosophy.

Reference:

Penal Code Section 368
Welfare & Institutions Code Section 15620
Elder and Dependent Adult Abuse Protocol
Policy Manual 326

Background:

In 1982 and 1983 the Governor passed two laws that relate to the reporting of elderly (SB 1210) and dependent adult abuse (SB 1805) and these became law in January of 1984. These laws provided that each county board of supervisors designate an adult protective agency to receive these reports. The Santa Clara County Department of Social Services is the designated agency in this county.

SB 1805 encouraged the local law enforcement agencies to report instances of suspected elder or dependent adult abuse to the adult protective agency in their county.

SB 1210 mandated that the local law enforcement agency report instances of elder or dependent adult abuse if they have actual knowledge of a crime. These crimes will be reported to the adult protective agency in their county.

The Santa Clara County Department of Social Services has designated the Adult Protection Unit to receive these reports of suspected abuse.

In addition to the telephone call notifying the adult protective agency of the crime, the law requires that a written report be sent within thirty-six (36) hours to the adult protective agency. The Morgan Hill Police Department records section will forward the reports to the appropriate agency.

Officers must write an Incident Report that should include the following information:

- The name of the person notified at the adult protective agency of the crime.
- The date and time of this notification.
- The officer should route a copy of the Incident Report to "Social Services."

Officers should become familiar with the appropriate sections dealing with these types of violations:

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- Elder or dependent abuse (368 PC)
- Court calendar: over 70 years, dependent adult (1048(b)(2) PC)

Officers should become familiar with the following definitions:

- Elder abuse: A situation where any person who has care or custody of, or who stands in a position of trust with an elderly person, willfully inflicts upon that elderly person any cruel or inhuman corporal punishment or injury. Physical abuse includes but is not limited to, direct beatings, sexual assault, unreasonable physical constraint, or prolonged deprivation of food or water.
- Dependent Adult: A person age 18 through 64. The term “Dependent Adult” means any person residing in California who has attained the age of 18 years or older who has physical, mental, or financial limitations which restrict his or her individual ability to carry out normal activities of daily living, ability to protect his or her own rights and which threaten the individual’s capacity to live an independent life.
- Neglect: The failure of any person having the care or custody of a dependent adult or elder to exercise the degree of care that a reasonable person would exercise.
- Abandonment: Desertion or willful forsaking of a dependent adult or elder by any person, health facility, community care facility, clinic home health agency, or legal guardian or conservator who provides goods or services necessary to avoid physical harm or suffering and who performs duties.

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Guidelines for Vehicle Theft Reports

Many hours are expended on unfounded vehicle theft cases in which a report should not have been taken. The following are guidelines to determine if a stolen vehicle report should be written.

Owner Consent:

- Domestic loan: The victim loans the vehicle to a friend or acquaintance. The victim may or may not be specific as to when the vehicle is to be returned. In this and similar cases, every effort to recover the vehicle must be made by the victim. The victim must also send a demand letter via certified mail. Ten (10) days from the date of the certified mail receipt, a stolen vehicle report may be taken.
- Test drive - Private party seller: In the “private sale” situation, a report should be taken after the person taking the vehicle fails to return it within a reasonable time frame. Three or four hours would be a reasonable length of time for the test driver to make mechanical checks and detect potential car trouble.
- Test drive - Dealership sale: The same principle applies to automobile dealerships. However, the dealership representative authorizing the test drive will be required to make the vehicle theft report after the three to four-hour time frame has elapsed.
- In all situations, if a vehicle was taken by force, fraud, or deception, then no warning period is required, and a report should be taken.
- Rental or leased vehicles: California Vehicle Code section 10855 states in part “... any person who has leased or rented a vehicle willfully and intentionally fails to return the vehicle to its owner within five days after the lease, or rental agreement has expired, that person shall presume to have embezzled the vehicle.” If the person renting or leasing the vehicle uses a false name or any form of fraud, the 5-day waiting period is unnecessary, and a report should be taken.

In all cases that involve a rental or leased vehicle, the following information should be obtained and submitted in the Incident Report:

- A copy of the rental agreement certified mail receipt and demand letter.
- The name of the employee who rented the vehicle and a statement describing the circumstances of the transaction.
- A detailed description of the suspect and whether the employee renting the vehicle can identify the suspect.

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Civil vs. Criminal Situations (Divorce Situations):

Often during divorce situations, or after an argument, one of the parties will leave the house, and the other will report the vehicle stolen. If the reporting party indicates that it was the spouse (common-law or legal) that took the vehicle, the officer should explain that under California community property laws no crime has been committed. No report should be taken in these cases.

However, if there is a final divorce decree and the reporting party was granted possession of the vehicle, a report should be taken. When the divorce is not final, but the property has already been divided by the court, and they were given the title to the vehicle, the reporting party should be directed to contact their attorney for enforcement of the court order. No report should be taken.

Report Reminder:

An Incident report shall be completed in all auto theft cases. The CHP form 180 shall also be completed as an attachment to the original report (remember: the CHP form 180 has a back page with questions to ask the victim). All stolen vehicle reports should include a victim statement which details the circumstances of the theft and if anyone was given permission to drive or take the vehicle. If the registered owner and the reporting party are different, the relationship between the two should be noted.

Recoveries:

Officers must interview all persons arrested relating to their connection to the stolen vehicle before they are transported for booking. This is important for the purposes of prosecution and obtaining a timely complaint.

Fingerprints:

In most vehicle recoveries there are no arrests or witnesses. It is very important that officers who recover stolen vehicles dust for latent fingerprints. If patrol officers don't dust for prints, no one else will. The majority of the time fingerprints are the only means of identifying the person who took the car. Without latent prints, the suspect is free to continue stealing vehicles and they usually will. It is dirty and time-consuming to dust for latent prints, but it only takes one good hit from a print to catch a thief.

Vehicle Searches for Evidence:

The officer recovering the stolen vehicle should check the interior of the vehicle for papers or other dated items that might link someone to the vehicle during the time it was stolen. Also, the trunk of the vehicle should be checked for items of evidence that the perpetrator may have left behind.

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Inspect the windows, doors, locks, and ignition of the vehicle for signs of tampering. By examining these areas, officers can often determine if the perpetrator was an experienced thief or a novice

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PHASE III TRAINING MATERIAL

The following section contains material related to the third phase of the Field Training Program.

Property and evidence

The Morgan Hill Police Department strives to maintain the property in the same condition as when it was received, and when appropriate, to preserve the evidentiary integrity of the property that is contraband or held for presentation in court. Every reasonable effort will be made to return the property to its rightful owner, if appropriate.

Certain categories of property evidence must be processed in a special manner so as to ensure its evidentiary value is not jeopardized. Officers should familiarize themselves with the appropriate gathering and preservation techniques.

Evidence will be booked into the evidence locker prior to officers going off shift. Under no circumstance will evidence be kept in a personal locker, patrol vehicle or any other place.

The following information was obtained from the Santa Clara County District Attorney's Crime Laboratory and is the most current and acceptable procedure for the preserving and collecting of evidence by patrol officers. Officers should also consult the Morgan Hill Police Department Property and Evidence Manual when booking evidence. A copy of the manual may be found in the evidence processing room.

Biological evidence collection - general guidelines:

- Wear gloves at all times.
 - Prevents contamination of evidence by individual and vice versa.
 - Change gloves as they are soiled to prevent cross-contamination of evidence items.
- Do not cough or sneeze on the evidence items.
- Always clean utensils after collection of each sample to prevent cross-contamination.
- Always collect control samples. Purpose of control samples is to demonstrate that the background of the substrate (what item the stain is on) does not produce a positive result for the particular lab test.
 - Control samples are collected as close as possible to the stained area without contaminating it with the stain.
 - Always document where the control is taken from; including distance from stain.

Handling and storage of biological evidence:

- Each item collected (stains and controls) must be:

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- Air-dried if wet or moist. Do not heat stained material or place it in sunlight to dry. Hang clothing and similar articles in the drying locker.
 - Package separately in paper (i.e., bindles, envelopes, paper, bags, boxes). Do not use plastic bags, plastic containers, glass bottles/vials or any other nonporous packaging material.
 - Stored frozen. Consider special handling of non-absorbent items such as metal or plastic. Condensation from thawing could disturb or destroy biological evidence, particularly bloody fingerprints. Such items should be kept at room temperature and submitted to the laboratory as soon as possible.
- Liquids (generally reference samples)
 - Blood: Reference blood samples, collected in (ACD) vacutainer tubes are placed in the designated evidence locker.
 - Saliva: Collect saliva on a sterile gauze pad, air dry and package in paper. Do not package in nonporous packaging material, i.e., plastic bags/containers, glass, bottles/vials, etc.).

Dried biological stain collection:

If possible, collect entire items and submit to the Laboratory (i.e., knives, clothing, bedding, etc.). Package each item separately in a paper container. Controls do not need to be collected.

For larger items, cut out stain such that it includes an unstained portion for use as a control (i.e., mattress, sofa, car seats, walls, floors, carpet, etc.). Package each item separately in a paper container.

Swab stain area with sterile cotton swab slightly moistened with distilled water. Concentrate the stain. Control samples are collected in the same manner from a nearby unstained area. Air-dry and package each item separately in a paper container.

Wet biological stain collection:

Wet biological stains (i.e., blood pools, semen, saliva) should be collected on a sterile gauze pad or sterile cotton swabs and allowed to air dry. Do not use nonporous packaging material (i.e., plastic bags/containers, glass bottles/vials, etc.).

Items of evidence that contain wet blood or other bodily fluids should be handled carefully. These items should be hung in the evidence drying locker that is located within the department.

The officer placing items into the drying room must place an evidence tag on each item of evidence and locker door. A Property Report must also be completed that indicates a description of the item and the fact that it has been placed in the drying locker. It must also be indicated in the Incident Report that items were placed into the drying locker.

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Items that contain dried blood or other bodily fluids can be booked into evidence in the normal manner, after being marked as a biohazard.

Blood samples from live individuals:

For DNA typing purposes, samples should be collected in a yellow (ACD) or lavender (EDTA) stopper vacutainer tube. Note: These are distinguished from the BA/Toxicology tubes, which have gray or blue stoppers.

If an individual is transfused, make an effort to obtain the pre-transfusion sample collected by the hospital personnel. These samples are not retained for long periods by the hospital, so it is important to act promptly. Notify the Laboratory if a transfusion has taken. Note: Bloodstained garments removed from the individual may be used as a secondary standard.

Saliva samples:

For DNA typing purposes, saliva samples may be collected and used as reference samples in those instances where blood is not available. Use sterile cotton swabs to rub the inside cheek area of the mouth. Air dry, package in paper container and store frozen.

Seminal stains:

Seminal stains are often, but not always, found on clothing, blankets, and/or sheets. Allow any stains to air dry and package evidence in paper bags or wrap in paper. Do not use plastic bags.

For sex offense cases, the victim should always have a S.A.R.T. examination, (If the event falls within the time restraints). Evidence obtained from the S.A.R.T. nurses at Valley Medical Center will be booked into the evidence, and the property clerk will be called immediately to place the items inside the refrigerator inside the evidence room.

It is the officer's responsibility to collect evidence from suspects of sexual assault cases. Suspect sexual assault gathering kits are available from the patrol supervisors or supply cabinet. Each kit contains containers and instructions on the gathering of this evidence from the suspect.

All clothing, blankets, wash clothes, sheets, etc., obtained from the victim and suspect of sexual assault cases should be properly marked and booked into evidence separately. These items should be handled as little as possible to avoid contamination.

If fabrics are damp, they should be placed in the drying room to dry, prior to placing into the evidence room.

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Hair:

An examination of human hair can sometimes indicate the race of the individual from whom it came and the part of the body from which it originated. Animal hair can sometimes be identified as to the type of animal from which it came.

Human hair can be compared to determine whether or not two samples could have had a common origin. The value of the laboratory examinations of such specimens will depend upon the amount of hair recovered and the characteristics found in the examinations.

Recover all hair present. If possible, use the finders or tweezers to pick up hair, place in cellophane or coin envelopes that should then be sealed in mailing type envelopes for booking into evidence.

If hair is attached, such as in dried blood, or caught in metal or cracked glass, do not attempt to remove it, but rather leave the hair intact on the object. If the object is small, mark and seal it in an envelope. If the object is large, wrap the area containing the hair in paper to prevent loss of hairs during shipment.

In rape cases, the victim's pubic region should be combed, by medical staff, prior to collecting standards. Obtain known hair samples from the victim, suspect, or any other possible sources for comparison with unknown specimens. The recommended method for collecting head hairs is to have the person from whom they are being collected bend over a large sheet of clean paper, rubbing or massaging their hands through the hair so that loose hair will fall out on the paper.

Hairs may have to be pulled out if the above method is not successful. Do not cut the hair. This same method may be used to collect hairs from other parts of the body. When the person is a suspect, representative hair samples should be gathered from all parts of the body even though there may only be an interest in hair from the head at that particular time.

Fibers and threads:

Such evidence is often found in fabric abrasions or caught in torn materials or other areas on hit-and-run vehicles. In some burglary cases, it may be found caught in torn screens, broken glass, or other locations.

Examination of fibers can normally be conducted to determine the type and color of the fiber. Such examinations will sometimes indicate the type of garment or fabric from which they originated.

Fibers and threads can also be compared with clothing of suspects to determine whether or not they could have come from this clothing.

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If a thread or large fibers are found, they can often be picked up with the fingers and placed in a coin envelope, which can be sealed and marked. Never place loose fibers directly into a mailing envelope since they can be lost from this type of envelope.

If the fibers are short or few in number, and if it is possible to do so, place the whole article in a plastic envelope, or wrap the area containing the fibers in plastic or cellophane and book into evidence.

Do not attempt to pick up fibers on scotch tape unless this is the only way in which they can be saved. This method of recovery might be justified when fibers are found loosely caught on a motor vehicle, and the wind is blowing so that they may be lost if any delay is incurred in recovery, or if attempts were made to pick up individual fibers. It is best to pick-up fibers with the sticky portion of a "Post It" notepaper. When fibers or threads are recovered, always collect all clothing of persons from which they might have originated. These will subsequently be sent to the Laboratory for comparison purposes.

In sex offenses, assaults, and some other cases, it may be possible to indicate or demonstrate contact between two individuals or between one other individual and some other object, such as a car seat, by comparing fibers. Such examinations are only of value when it is known that no contact occurred between the two individuals or an individual and some other objects prior to, or subsequent to, the offense.

Extra care must be taken to keep each article of clothing of each individual or other object separated. Each garment should be laid on the table, covered with a clean sheet of paper, and separately rolled up in the paper after marking the exhibit. If the clothing of one subject touches the clothing of another, or if it is laid down on the table or placed on the car seat contacted by the clothing of the other subject, the comparisons may be of no value.

Soil evidence:

- Firmly Attached Soil Samples: If the soil is firmly attached to some object, as in the case of dried mud on a shoe, do not remove it. Label the object then place it in a large brown paper bag or cardboard box. Always completely seal the container so no loss of the specimen can occur.
- Loose Soil on Clothing: If the soil is loose, such as sand or soil in a trouser cuff, shake it out on a piece of paper, then fold the paper several times to enclose the soil and place it in an envelope, which then can be sealed and labeled. Indicate where the loose soil was collected.
- Soil on Other Objects: In the case of loose soil or mud in the street or in a building, pick up the soil, place it in a bag, box, firm can or jar, and seal and mark the container. Collect the soil without contaminating material. In the case of hit-and-run, cakes of dried mud may fall to the pavement or road shoulder, or under vehicle fenders. In such cases, if contamination may have occurred, attempt to

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pick up the top part of the specimen only, leaving the contaminated underside. Also, advise the Laboratory of contamination.

- Reference Specimens for Comparison: Collect reference samples from the suspected source of the questioned specimen. Also, collect representative samples from many other places in the vicinity of the crime scene, so the Laboratory can determine how much variation there is in the soil in that area. A diagram should be made to show the location of the collected samples. In the case of a footprint in the ground at a residential burglary, collect reference specimens from several locations in the yard. Also, obtain samples from adjoining property. In cases where comparisons of soils from rural areas are desired, collect specimens from various locations in fields near the crime scene and also from adjoining farms or fields.

If dried mud is present on suspect's shoes or clothing, question him/her as to its source. Obtain soil samples from all alibi areas he/she may mention.

In most soil comparison cases, numerous comparison specimens are necessary. Normally, the more samples that are collected, the more valuable the comparison conducted will be.

Collect comparison samples as soon as possible after the crime is discovered. If delays occur, soil may be altered by cultivation or contamination, and thus no satisfactory comparison may be made.

Glass evidence:

Windows are frequently broken in burglaries, headlights in hit-and-run cases, and bottles or other objects may break and leave fragments on personal belongings of suspects involved in various types of crimes. Powdered glass can be identified as glass, but in order to make comparisons, a fragment is required, which is at least large enough to observe its shape without magnification. Shoes and clothing of suspects or other objects contaminated with glass should be submitted to the Laboratory for examination.

All glass found at hit-and-run scenes should be recovered. The search should not be limited to the point of impact, since headlight glass may be dropped off at some distance away as the car leaves the crime scene. Glass from different locations should be kept in different containers. All glass should be collected because more than one type may be present. In addition, if just a few representative samples are saved, individual pieces that could be physically matched with glass remaining in the headlight shell of the suspected vehicle may be overlooked.

Place small glass fragments in coin envelopes, pillboxes, or film cans, which can be marked and completely sealed. Place large glass fragments in boxes. Separate individual pieces with cotton or tissue to prevent breakage and damaged edges during transportation and storage.

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Paint evidence:

Paint evidence is frequently encountered in hit-and-run cases, on tools used by burglars, and occasionally in other types of cases.

- Hit-and-Run Cases: Paint may be transferred to the clothing of pedestrian victims. Examine all areas, with particular attention being paid to areas showing pressure glaze, tears, or other contact. If found, do not remove the paint, but mark the garment, carefully wrap it by rolling it in paper and send to the Laboratory.

Obtain samples for comparison from all areas showing fresh damage on suspected vehicles. This is very important since the paint may be different in type or composition in different areas, even if the color is the same. If the paint can be flaked off by bending the metal slightly, remove it in this manner. If not, scrape or chip the paint off, using a clean knife blade. Carefully wipe the blade before collecting each sample. Collect all layers down to the metal. Place each sample in a separate container.

- Burglary Cases: Tools used to gain entry into buildings, safes, or other places or object often contain traces of paint, as well as other substances, such as plastic, safe insulation, etc. Care must be taken that such traces are not lost. If such transfers may be present, wrap the end of the tool containing the material in cellophane or plastic and seal with tape to prevent loss. In no case should attempts be made to set the tool into marks or impressions found? If this is done, transfers of paint or material can occur, and any traces later found will have no significance as evidence.

Collect specimens of paint from all areas that the tools may have contacted at the crime scene. These samples should include all layers present. Do not destroy the tool mark in collecting the paint. If possible cutout around the mark and send it to the Laboratory.

Collection and Preservation of Paint Specimens:

- Keep all samples collected in separate containers.
- Small paper or cellophane envelopes can be used to collect and hold many paint samples.
- Paint may also be placed on sheets of white paper that can be folded to prevent loss of samples. Such papers can then be sealed in envelopes.
- Glass vials or other suitable containers may also be used.

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- Never place paint directly into mailing envelopes unless large pieces are enclosed. Most such envelopes have unsealed cracks in the corners and loss, or contamination can occur.

Firearms evidence:

- Firearms:
 - Handguns should be placed into the appropriate container that is made for these items. Only under unusual circumstances should a loaded weapon be placed in the evidence locker. In those instances the container must be clearly marked, "LOADED FIREARM," and the same should also be indicated on the Property Report. Generally, a firearm will be booked into evidence unloaded and have its safety on and chamber or cylinder secured in the open position with a plastic cuff.
 - The officer will also contact the Communications and have them run the serial number of the weapon for any wants. The report should indicate that the serial number has been run and the results. The firearm serial number will also be entered into the Automated Firearm System (recovered, found, evidence, etc.).
 - Never clean the bore, chamber, or cylinder before submitting a firearm.
 - Never attempt to fire the gun before it is examined in the laboratory.
 - Never pick up a weapon by placing a pencil or other object in the end of the barrel.
 - Never fire a shot through a suspected silencer before it is examined in the laboratory.
 - Record serial number, make, model, and caliber of the weapon, and mark it in some inconspicuous manner that does not detract from its value before sending it to the laboratory. The marking of firearms is important since duplicate serial numbers are sometimes found on different guns of the same make and general type. Do not confuse model numbers or patent numbers with serial numbers. Many shotguns and .22 caliber rifles manufactured before 1969 do not have serial numbers.
 - Rifles or shotguns should not be taken apart.
 - If blood or other material, which is of interest in connection with an investigation, is present on the gun, place a brown paper bag around the gun and seal it to prevent loss of the sample during shipment.
 - If the gun is to be examined for latent fingerprints, use procedures under that title in this section.
- Bullets:
 - Never mark bullets.
 - Wrap recovered bullets in tissue paper and seal in separate labeled pillboxes, film containers or envelopes.
 - Submit all evidence bullets and bullet fragments to the laboratory.
 - Do not attempt to clean recovered bullets before sending them to the laboratory except in the case of bullets recovered from a body.
- Cartridge Cases:

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- Package recovered cartridge cases in separately labeled zip-lock plastic bags, Pillboxes or envelopes.
- Fired shotgun shells may be marked either on the inside or outside of the paper or plastic portion of the shell.
- If an examination may be required to determine if a shotshell or cartridge case was fired by a specific weapon, submit the weapon and all recovered unfired ammunition.
- Submit all evidence cartridge cases or shotgun shells recovered into evidence. Frequently some cases contain more identifying detail than do others.
- Do not attempt to clean recovered cartridge cases before submitting into evidence.
- Ammunition:
 - Always attempt to recover unused ammunition for comparison purposes when firearms are obtained as evidence. If not in the weapon itself, subjects often have additional ammunition in their car, clothing, house, or other locations.
 - Unfired ammunition should not be marked. The box in which the ammunition is found may be marked without marking every round in the box.
- Powder and Shot Pattern:
 - Submit clothing or other material showing evidence of gunpowder residue or shot holes into evidence. Carefully place paper over and under each garment. Care should be taken not to roll-up or fold the garment. Photographs of the pattern will not suffice, as in most instances microscopic examination and chemical tests must be conducted on the exhibits themselves. Package each item separately.
 - For gunpowder or shot pattern test to have significance, it is essential to obtain ammunition identical in make, type, and age, to that used at the crime scene. This duplicate ammunition is necessary for test firing the questioned weapon to determine the distance of the muzzle of the weapon from the subject or other object at the time the bullet was fired.
- Gunshot Residue:
 - Gunshot residue on the hands of a person as the result of firing a weapon has long been a detection problem. Current methods cannot guarantee detection in all cases.
 - Where the individual is alive, it is extremely important that recovery of the residues be carried out as early as possible. If more than six to twelve hours have passed or the person has washed his/her hands, it is unlikely that any meaningful residue will be collected. In general, there is a very rapid fall off in the recovery of gunshot residue.
 - Under no circumstances should a suspect be allowed to wash his/her hands prior to testing.

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Property with possible latent prints:

Generally, in most non-major cases the patrol officer will attempt to locate and gather all latent print evidence. There will be times when officers will not be able to lift the latent prints because the material is extremely delicate, damage to the property could result if the latent is lifted, the surface is wet, or special skills are required to lift the latent.

An officer desiring to book an article into evidence for latent print gathering should clearly mark on the package, evidence tag and property report "hold for fingerprints" prior to booking the article into the evidence locker in the prescribed manner. The Incident Report should also include the request for processing. When booking these types of evidence items into the evidence locker care should be taken so as not to destroy the latent prints. A paper bag or a box is suggested items for storing of these items when placing into the evidence locker.

Papers and documents containing latent prints should be placed individually in a cellophane or manila envelope.

Computer evidence:

When a computer is seized, immediate action should be taken to protect the data on the computer's hard disk and associated floppy diskettes. All supporting software, documentation, hand-written notes such as instructions or passwords, and any other hardware, magnetic media, documentation, etc.

Photographic evidence:

Officers will properly fill out a property sheet on all 35mm film they submit for developing and printing. The envelope containing the film is to be placed into evidence for processing.

Digital photographs may be submitted as well. The images are to be transferred from the camera to a CD. The CD is submitted in the same manner as 35mm film.

Narcotics evidence:

Obtain the gross weight of the drug by weighing it and its packaging material (i.e., baggie, balloon, vial) on the narcotics scale in the Armory before placing it into the heat sealed plastic bag. Include the gross weight amount in the "Description of Evidence" section on the Evidence sticker. Example: Description of evidence: One plastic baggie with suspected marijuana (gw 12.5 grams). A presumptive test should be done on all suspected narcotics, except marijuana, prior to it being submitted into evidence. The results of this test will be included in the report.

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Narcotic paraphernalia:

Items that have been used in the taking or preparation of narcotics are considered paraphernalia and will be booked into the evidence room in the prescribed manner. Empty or unused needles or hypodermic syringes will be photographed and placed into the sharps container in booking. "Loaded" needles or hypodermic syringes will be booked as narcotic evidence for analysis by the crime lab. Razor blades, broken glass and other sharp items will be booked into evidence in such a manner so as not to present a danger to anyone handling the item. The officer will also note on the package the presence of sharp contents as to alert others of the hazardous potential.

Safety tube:

Read the instructions on the label attached to the tube. In addition to those instructions, place initials and badge number somewhere on the label. Example: If a hypodermic needle contains liquid, weigh the needle and record the gross weight on the property form as: "total gross weight of hypodermic needle with contents of suspected liquid heroin equals 14.5 grams." For safety purposes, the officer may weigh the syringe inside the Safety Tube and subtract the weight of the tube from the total weight. If there are no suspected drugs in the syringe, it does not need to be weighed.

Large evidence items:

Evidence items that are too large for the evidence storage lockers can be placed into the bike cage. The annex is located outside the sally port and can accommodate large items. It must indicate on the property report that the items were placed into the bike cage and they will be moved by the property clerk as soon as possible.

Explosives, flammable or hazardous material:

Generally, items that contain explosives or other flammable material will not be booked into the Property Room. A departmental bomb technician will be notified and handle the disposal of any explosive materials that are located. The fire department or District Attorney's Hazardous Material Investigator can assist in the determining the proper disposal of flammable or other hazardous material.

When in doubt, contact the patrol supervisor for direction.

Vehicles:

Vehicles are sometimes held for evidence or for further investigation related to a crime. The officer can have the vehicle taken to the Morgan Hill Police Department at 16200 Vineyard Blvd. The vehicle should have Morgan Hill Police Department evidence seals placed on the doors, trunk lid and engine compartment and other access areas prior to being towed.

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In serious investigations or in situations where a high degree of security is deemed necessary, officers can have the vehicle towed to the Morgan Hill Police Department indoor storage at the police department. Officers should ensure that all of the vehicle doors, trunk lid, and engine compartments are secured with a standard evidence seal. The vehicle should be followed to the storage facility.

The report must indicate that the vehicle was towed to the Morgan Hill Police Department.

Procedure for packaging evidence:

- Brown Paper Bag:
 - Put the evidence into a brown paper bag and fold the top of the bag down twice.
 - Place Morgan Hill Police Department evidence packaging tape across the width of the bag to close.
 - Overlap the tape a couple of inches on both sides so that it wraps around to the back of the bag. Use clear plastic tape if evidence packaging tape is unavailable.
 - Place initials, badge number, and date across the edge of the tape overlapping onto the bag.

Note: Do not staple bags to close. Evidence technicians do not want staples to be stapled into evidence bags for the following reasons:

- Staples can cause injury to the technicians when they open the bag.
 - The removal of the staples often destroys the original bag so that the technicians must spend time repackaging the evidence themselves.
- Heat Sealed Plastic Bag:
 - Place the evidence into the bag. Heat-seal the top. Leave ample space at the top so that the same bag can be heat-sealed again after opening.
 - Attach an evidence label to the outside of the plastic bag.
 - Attach one copy of the property page to the heat-sealed plastic bag with a paper clip. DO NOT staple anything to the bag, since these bags must remain airtight.
 - Using a permanent felt marker place initials, badge number, and date across the line of closure on the heat-sealed plastic bag. Do not use a ballpoint pen.
- Cardboard Box:
 - Tape the box closed.
 - Attach an evidence label to the box.
 - Secure one copy of the property page to the box with a rubber band
 - Knives: Roll up the knife in a paper bag. Tape the bag. Put initials, badge, and date across the tape. Place the knife in a cardboard box or brown paper bag. Follow the procedure for labeling the box or bag. Note Tape the blade of the knife or the point of any sharp object if these items are

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found property, and there is no likelihood that they will be processed for latent prints.

- Guns: See FIREARMS above
- Ammunition:
 - Chambered live round: Place in heat-sealed or plain plastic bag. In the Description of Evidence section, indicate “chambered live round.”
 - Live rounds in magazine: Place in heat-sealed plastic bag. Leave the rounds in the magazine and describe as “live rounds in magazine.” Do not remove the rounds from the magazine to count them, as they may later be processed for latent prints.
- Monetary Evidence Envelope:
 - Follow the instructions on the envelope.
 - Always use a separate property page for money.
 - Tape one copy of the property page to the Monetary Evidence Envelope.
 - Put the envelope in the drop slot in the Property Room.
 - The envelope must be signed by two officers prior to submission.

Note: If the money itself is to be used as evidence, on the back of the envelope in large writing put “EVIDENCE” and check the evidence box on the envelope. Otherwise, the money may be intermingled with other monies taken in and cannot be retrieved later for evidentiary purposes.

- Latent Print Evidence: Place the fingerprint cards inside an envelope and book into evidence.
- Physiological Specimen Requests Envelope: Follow the instructions on the envelope. Once the specimen has been secured in the envelope, put it in the appropriate specimen receptacle in evidence.

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Tactical Communication

One goal of peace officers should be to generate voluntary compliance without resorting to physical force. Tactical communication methods provide peace officers with a set of tactics that enable them to gain cooperation and generate the voluntary compliance of others in stressful situations. These skills can be beneficial in any contact which places the officer and community in conflict with one another.

Tactical communication is a strategic message delivered to a specific audience with the goal of generating voluntary compliance. It is made up of *what an officer says* coupled with *how the officer says it*.

The following table identifies the two primary benefits of using tactical communication.

Benefit to Officers	Explanation
Enhanced safety	<ul style="list-style-type: none">• Provides techniques that reduce the likelihood of physical confrontation• Reduces injuries
Enhanced professionalism	<ul style="list-style-type: none">• Permits officers to give more effective public service and improve community relations• Decreases:<ul style="list-style-type: none">- complaints against officers,- internal affairs investigations, and- civil liability• Reduces personal and professional stress in officers

Tactical communication includes five primary techniques to generate voluntary compliance. Use of these techniques can help officers avoid the need to use physical force to gain compliance. The following table describes each of these tools.

Techniques	Description
Listening actively	<ul style="list-style-type: none">• Officers should project that they are active listeners by following the steps for active listening, including:<ul style="list-style-type: none">- being open and unbiased,- hearing, literally, what is being said, then- interpreting what was said, and finally,- acting appropriately.

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Techniques	Description
Showing empathy	<ul style="list-style-type: none"> • Effective communication requires that officers have the ability to suppress their own egos and empathize. • Officers should project a sincere, empathetic attitude by: <ul style="list-style-type: none"> - treating the other person as the officer would want to be treated in the same circumstances, - developing a sense of what it might be like to see through the eyes of the other person and trying to construct a verbal way to relate to them, and - recognizing that people have a right to their own points of view.
Asking questions	<ul style="list-style-type: none"> • Officers must ask the right type of question to fit the situation and get the information they want. • Officers must recognize appropriate questioning strategies, including: <ul style="list-style-type: none"> - setting the context for questioning by explaining the purpose of the questioning and the direction it will be taking, - varying the questions, and - remembering to interview witnesses, not interrogate them.
Paraphrasing	<ul style="list-style-type: none"> • Paraphrasing means an officer puts the other person's meaning into the officer's own words.
Summarizing	<ul style="list-style-type: none"> • Summarizing creates a sense of decisiveness and authority. • Summarizing can be used to reconnect communication that is interrupted. • To summarize effectively, officers must restate what has been said: <ul style="list-style-type: none"> - accurately, - briefly, and - clearly.

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Varying the type of questions used can help officers by:

- Helping to calm a person who is upset,
- Helping to lessen resistance (especially if the officer senses resistance starting during questioning), and
- Maintaining their professional presence. (Too many general questions may make the officer look uncertain and unprofessional).

Once peace officers are familiar with the basic tactical communication tools, these tools can be combined into formal processes designed to reduce the likelihood of physical confrontation. Tactical communication techniques can be used:

- For obtaining voluntary compliance, and
- When conducting vehicle stops.

A major goal of law enforcement is to generate voluntary compliance without resorting to physical force.

Mediation is redirecting a person's behavior by providing options through a personal appeal. Officers engage in mediation during the five-step tactical communication process for obtaining voluntary compliance.

When using mediation, the officer describes how a subject's choices can have a personal impact on the individual's life. In any situation where a subject has something to gain or lose by the decision they make, officers have something they can use to try to redirect the subject's behavior.

Example: If a traffic violator refuses to sign a citation, the officer may choose to present such possible personal consequences as:

- time in jail or a criminal record, etc.,
- economic loss (e.g., cost of bail, loss of wages, tow charges, etc.),
- passengers having to walk home,
- loss of job,
- felony or misdemeanor charge instead of an infraction, or
- other personal appeal (e.g., impact of the arrest on the family, embarrassment, name in the paper, etc.).

Along with presenting a subject with options and the possible consequences, officers should try to think ahead for the subject. It can be a very effective meditation technique for an officer to mirror thoughts or regrets that a subject may have 48-72 hours later.

Officers dealing with fully or partially noncompliant individuals are frequently subjected to verbal abuse. Trained peace officers should react to verbal abuse with the use of planned responses which lead to *deflection* and *redirection* of the abuse. They should also demonstrate respect since disrespect can cause escalation.

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Officers benefit from planned responses to verbal abuse because:

- The officer is not emotionally hooked by the abuse,
- The subject does not gain emotional control of the officer, and
- The officer presents a positive professional image to the public.

When verbal communication is not effective, peace officers must use the force option that is appropriate for the situation. The actions of the individual suspect will determine the type or amount of force applied by peace officers. An officer's selection of the force option or amount of force should be based on the amount or *degree of resistance* of the suspect as well as other relevant conditions or circumstances of the specific situation.

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Civil Disputes/Violations of Court Orders

Patrol officers will have to deal with numerous types of court orders while working in the Enforcement Bureau. They must become familiar with the different types of court orders that are issued and when an arrest is appropriate. Officers must be able to differentiate between the listed sections when enforcing a court order.

- Willful disobedience of any process or order of the court (166.4 PC)
- Violation of court order (273.6 PC)

Below are some of the court orders that officers will be called upon to interpret and enforce:

Restraining Orders:

Most people are well aware that the courts have the power to determine who will have the right to possess or have custody over various kinds of accounts, houses, and minor children. Less well known is the fact that the courts also have the power, upon a proper factual showing, to order people to refrain (i.e., to “enjoin” them”) from engaging in a wide variety of behavior.

In recent years, several new “acts” were passed into law that focused on human relationships: the Domestic Violence Prevention Act, the Family Law Act, and the Uniform Parentage Act. These new statutes have expanded the power of the courts to grant effective relief from many types of abusive and non-abusive behavior, particularly through the use of temporary restraining orders (TRO).

Traditionally, law enforcement has been reluctant to get involved in enforcing restraining orders on the theory that they were more of a civil dispute than anything criminal in nature.

However, over the last few years, it has become better known that the violation of such court orders constitutes a crime. This fact, together with the increased public focus on child abuse, battered women, and battered elders, makes it vitally important for every law enforcement officer to have a good understanding of peace officers’ powers and duties in this area. Indeed, recent data indicates that prompt and forceful intervention by law enforcement is very effective. These interventions do not only aid in resolving the conflict and the short-term, immediate problem. Law enforcement intervention can also help to break the longer-term cycle of abusive behavior, which often underlies these kinds of situations.

To better understand the statutes authorizing restraining orders, an explanation of some of the common terms is helpful. Below are some of these terms:

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Order to Show Cause (OSC):

Whenever a plaintiff or victim petitions or applies to a court for a restraining order, the court will set the matter for a noticed hearing where both sides can be heard. The notice to the other side is called an order to show cause (OSC). An OSC is merely a court order to the other side (the defendant) commanding them to be present at the hearing and give reasons, i.e., “show cause,” why the relief the plaintiff is seeking should not be granted.

Temporary Restraining Order (TRO):

In critical situations where “instant relief” is appropriate, a court may issue a temporary restraining order (TRO) at the same time as it issues the OSC. Such a restraining order is called “temporary” because it stays in effect only until the evidentiary hearing with the defendant takes place. Such a hearing must be scheduled promptly, usually within a week or two.

The law enforcement officer should realize that in order to show cause (OSC) becomes a temporary restraining order (TRO) if a judge has authorized it and the appropriate box on the form has been checked.

An example would be when a plaintiff goes to a judge with the necessary papers to seek a restraining order. If a proper showing has been made, the judge will issue an OSC, but if the relief the plaintiff wants is also granted temporarily at that time, pending the hearing, then the document becomes a combination OSC and TRO.

Ex Parte Order:

A temporary restraining order may often be obtained with or without notice to the other side. When it is obtained without notice, it is considered an “ex parte” order because one party obtained it only. Many of the family law statutes now provide for the issuance of ex parte restraining or protective order.

Permanent Injunction:

An injunction is simply a writ or order of the court requiring a person to refrain from a particular act. When such an order is obtained after a full evidentiary hearing or “trial,” it is considered permanent. This means that it stays in effect indefinitely or until modified or dissolved. However, most restraining orders obtained under the statutes governing divorces, domestic laws, and harassment last a shorter specified time, such as one, two or three years.

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Types of Restraining Orders:

Some of the various types of restraining orders that are authorized under statutes in the Civil Code and the Code of Civil Procedure are as follows:

- Restraining orders obtained as part of a divorce or annulment proceeding, either temporary or as part of the pending lawsuit, or as part of the final judgment decree.
- Pending lawsuits - interlocutory decrees.
- Under Family Code section 2045: A person, as part of any pending divorce or annulment lawsuit, (e.g., part of the interlocutory judgment or decree), can obtain an ex parte protective or restraining order which does any of six things:
 - Restrains the other party from transferring, mortgaging, hiding, or disposing of any real or personal property.
 - Enjoins one party from contacting, molesting, threatening, assaulting (sexually or otherwise), battering, disturbing, etc., the other party.
 - Excludes one party from the family dwelling or the dwelling of the other.
 - Determines temporary custody of minor children and visitation rights.
 - Determines temporary use, possession and control of real or personal property and the responsibility for debts.
 - Enjoins the party from any specific behavior necessary to accomplish items two and three above.

Any type of restraining order should state on its face the date it expires, and a copy of any such order is supposed to be served on any local law enforcement agency which has jurisdiction over the residence or other place that domestic violence might occur.

The knowing violation of any part of such a court order is a misdemeanor under 166.4 PC. The violation of those parts of such an order that relates to “battering” and “exclusion” are also specifically made a misdemeanor under 273.6 PC.

Final Judgments:

Once the pending lawsuit is resolved, a final judgment is entered. A final judgment in a divorce or annulment lawsuit may also include an “anti-battering” order issued under sections 6360, 6361, 63280, and 6388 Civil Code. Any such order should reflect its expiration date, which may not exceed one year from the date of the final judgment unless extended by the court after a noticed hearing. A copy should be sent to the appropriate law enforcement agencies, and a violation of any such order is a misdemeanor punishable under 273.6 PC.

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Civil Harassment Prevention Orders (527.6 CCP):

Section 527.6 CCP covers many situations that do not fit under the Domestic Violence Prevention Act. This includes providing relief from non-criminal, non-violent behavior that causes another person (not limited to family or household members), substantial emotional distress (phone call, following, staking out, etc.).

527.6 CCP defines harassment as a “knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, or harasses such person, and which serves no legitimate purpose.”

A person who files for an injunction can obtain a TRO, with or without notice under this section, but a hearing must be scheduled within 15 days or within 22 days by order of the court with a showing of good cause. An injunction that results from the hearing can stay in effect for up to three years and can be renewed by filing a new petition.

A copy of any TRO or injunction issued under this statute is supposed to be served upon the appropriate law enforcement agency. The willful violation of any portion of a “harassment TRO” or injunction is specifically made a misdemeanor under 273.6 PC.

Obtaining a Restraining Order:

Virtually anyone can obtain a restraining order, injunction, or TRO by following the procedures set forth in the relevant statutes, particularly section of 527 of the Code of Civil Procedure. Most often; however, a plaintiff or victim will do the following:

- Contact a lawyer for representation.
- Contact a community action group for assistance
- Contact the county clerk’s office and obtain forms and instructional material.
- Filing fees can be waived in many instances.

Enforcement of a Restraining Order:

Violation of a valid court order, judgment, or TRO by a named party who has been served with it, or is otherwise aware of its contents, always constitutes a misdemeanor under 166.4 PC. In addition, violations of orders relating to harassment, battering, and exclusion constitutes a misdemeanor under 273.6 PC. As with any other misdemeanor, officers have a duty to arrest the offending party if the offense has occurred in his/her presence.

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Knowingly Violate Restraining Order (273.6 PC):

As indicated above, violations of protective orders relating to a battering and exclusion are specifically made a misdemeanor under 273.6 PC by the terms of 527.6(j) CCP.

In addition, all harassment prevention orders which are made enforceable under 273.6(a) PC, per 527.6 Code of Civil Procedure, which pertain to battering, threatening, assaulting, etc., or excluding some from the family dwelling or the dwelling of the other, is punishable by a fine of \$1,000 or six months in jail, or both.

Penal Code section 273.6(b) states that violating any order obtained under 527.6 CCP (dealing with harassment) is also a misdemeanor. 273.6 (d) and (e) also provides that if the defendant already has a prior conviction for a violation of 527.6 CCP (harassment order), the defendant must be sentenced to up to one year in jail.

The enforcement responsibility for all orders issued pursuant to the provisions of 273.6 (a) and 273.6(b) PC is the “prosecuting agency of each county,” per 273.6(f) PC.

Violating Any Type of Court Order (166.4 PC):

Section 166.4 PC makes it a misdemeanor for any person to disobey or violate any lawful order of any court willfully.

Section 166 PC covers every kind of court order, while section 273.6 PC covers only specifically listed areas; namely ones dealing with domestic violence, assaultive behavior, exclusion from dwellings, and harassment. Both are good statutes, and the officer may make a valid misdemeanor arrest under either one without a warrant, assuming that the violation occurs in his/her presence.

Traditionally, many laws enforcement agencies have been reluctant to make arrests under 166.4 PC, preferring that this type of civil matter be handled via a civil contempt proceeding (1209 CCP). Civil contempt is certainly a viable alternative, so is 166 PC, and it should not be overlooked.

Often, the problem here does not lie in the clarity or applicability of section 166 PC, but rather with the difficulty of establishing that the terms of a non-assaultive or non-exclusion order are being violated in the officer’s presence. For example, the possible violation of an order dealing with visitation rights or the payment of attorneys’ fees is difficult to determine positively and therefore probably would be better enforced by means of a civil contempt proceeding.

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Service or Knowledge:

Under either 166 PC or 273.6 PC, a violation of a protective order must be “willful” and/or “knowing” in order to constitute the misdemeanor. These words simply mean that the defendant must be aware of the terms or contents of the order at the time that the defendant violates them.

There are three common ways for a defendant to be aware of the contents of an order:

- The defendant was present at the hearing when the order was handed down (the order itself may indicate that the defendant was present); or
- The defendant was later “served” with a copy of it, by mail or in person. This information may also be indicated on the face of the order, or the defendant may admit it to officers if they ask him/her; or
- Officers read the contents to him/her, face-to-face, from a copy that they obtained on-scene, or from a law enforcement agency.

NOTE: If officers use the last method, be sure to enter this fact in Records’ file copy, so that if there is a future complaint, another officer can take immediate action without having to go through the same step.

Validity and Duration:

There can be no misdemeanor violation of a restraining order’s terms unless the order is currently in effect. This can be checked by looking at a copy of the court order.

A valid order will have a “filed” stamp date from the court on the top of the front page. In many cases, the expiration date will also appear on the face of the order. However, even if this date is not filled in, the order is never the less valid and remains in effect for the periods mentioned earlier. Generally, for the “battering” and “exclusion” orders, those periods are:

- As set forth in the order for any pending dissolution or annulment proceedings under the Family Law Act (2040 and 6218 Family Code) and for TRO’s under the other acts;
- One year from the date of the judgment for any such orders that are part of a final dissolution or annulment decree.
- One year under the Domestic Violence Prevention Act for orders obtained upon notice and hearing.
- Three years from the date of the injunction for harassment protection orders (527.6 CCP).

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If the complaining party does not have a copy of the order at the scene, check with records to see if a hard copy is on file. The law enforcement agency that has jurisdiction over the defendant or over the property is supposed to be served with a copy of protective orders relating to assaultive behavior and exclusion from dwellings, and this order is to be entered into the computer system. Such service is usually accomplished by mail, or by the plaintiff or the plaintiff's attorney bringing a copy to the agency.

Each law enforcement agency should have an organized system of accepting, filing, keeping track of, and updating such orders. Indeed, under 13710 PC, law enforcement agencies are required to "maintain a complete and systematic record of all protection orders, and proofs of service in effect."

NOTE: Sometimes, in an effort to keep their true location a secret, plaintiffs will serve several jurisdictions or agencies, some of which may have no connection to them or the lawsuit. Such copies should nevertheless be filed.

Officers may check with any other law enforcement agencies to check the current validity, terms, service, etc. Better yet, is to check with the clerk of the court that issued the order. Valid orders may be enforced anywhere in the State and service on the Morgan Hill Police Department is not required, if officers have personally seen a copy of the order.

Remember: Officers may make a valid, warrantless, misdemeanor arrest in these situations as long as:

- The order is currently in effect
- The Morgan Hill Police Department was served or received a copy in some other manner, or the officer has been shown a copy
- The defendant was or is now aware of its terms
- Subsequent to the defendant's awareness, the defendant violated those terms in the officer's presence

Of course, if the officer is dealing with a felony, the offense need not have occurred in their presence. It is a felony for a person, even if he/she has lawful custody, to take, detain, retain or conceal a child from someone else who has lawful custody. (277, 278 PC). Taking, detaining, concealing, or retaining a minor child in order to deprive another person of his/her visitation rights in a custody order is also a felony violation (278.5 PC).

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OTHER CIVIL ISSUES

Repossession Disputes:

A default on a conditional sales contract will cause a repossession. A conditional sales contract exists when an article is purchased on credit, is physically in the possession of the buyer, but the title of the item remains with the seller until the contract is paid in full. People who call for peace officers will probably want to use them as a “lever” on the other party involved. Remember, the peace officer is there just to keep the peace.

Seller’s Right to Repossess:

1812.2 CC gives the seller under a conditional or installment contract the right to retake property in the event of a buyer’s default. Generally, where goods are sold under a conditional sales contract, the title remains with the seller and possession with the buyer. This type of contract usually contains specific clauses giving the seller the right to repossess.

The United States Supreme Court ruled in 1972 that a notice and hearing are required before a seller can repossess the property. However, the usual practice of the seller is to have the buyer waive his/her right to notice and hearing in the contract of sale, and such waivers are valid and binding. Therefore, officers are likely to encounter irate buyers who have had no notice of any repossession proceedings.

Unauthorized Entry of Property (602.5 PC):

“Every person other than a public officer or employee acting within the course and scope of their employment in performance of a duty imposed by law, who enters or remains in any noncommercial dwelling house, apartment, or other such place without consent of the owner, his agent, or the person in lawful possession thereof, is guilty of a misdemeanor.”

Enforcement:

Determine who has the legal interest in the property and the premises through a deed lease, or rental agreement, or rent receipts. If there is joint ownership between the disputants, there is no trespass.

When the disputants are not legally married but have lived together on the premises, the court may determine that the legal interest in the property lies only with one party. Such as when only one party is paying the rent. If the rent-paying party refuses to allow the non-paying to enter and retrieve possessions, officers have no recourse except to encourage the latter to seek redress through the civil court. If the non-paying party is allowed to enter and retrieve possessions, officers may “preserve the peace” by standing by to ensure an orderly transaction. If the disputants seek legal advice from officers, refer them to an attorney or to legal aid.

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Buyer's Rights:

The buyer has the right to “object” to the reposessor taking the property. This objection may be oral, or by conduct, however, it must be made before the reposessor has possession. For example, if the reposessor gets into an automobile but does not move it before the buyer objects, the reposessor is considered as not yet having possession. Therefore, he may not legally repossess the car. The buyer's spouse has the same privilege to object as the buyer does.

In the event repossession is complete, and there is additional personal property involved, i.e., clothing tools, etc., inside an automobile, the buyer has the right to retain that other property, provided it is not an integral part of the repossessed property.

However, the buyer has no right to remove an automobile radio or other items that are attached to the vehicle even if the buyer claims he/she purchased it separately (fixture law).

If the reposessor takes unattached property contained in a repossessed item, the reposessor is responsible for that property to the buyer; the buyer has a right to recover it on demand. Also, the buyer may demand and get a receipt for attached personal property and may likewise recover such property or value at a later time.

A 1971 California court case stated if the reposessor later refuses to return or disclaims knowing the existence of such personal property, the buyer may maintain a civil action to recover the value of such property.

Third Party Rights:

Where the buyer has given a third party or person permission to use the property or maintain possession, i.e., dominion and control, such third party then stands in the shoes of the buyer. As against the reposessor, this third person may exercise the rights and privileges of the buyer.

If the property, when discovered, is in the possession of a bailee, for example, in a commercial parking lot where an attendant is on duty or in a check stand, the reposessor has a right to take possession. The bailee has and keeps possession rights until redeemed by the buyer.

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Remember the following points about repossessions:

- Officers will not take it upon themselves to try to determine if there has been a notice and hearing or a waiver of notice and hearing.
- Do not try to interpret the contract or get involved in any manner in private repossessions, except to keep the peace.
- A person who makes a good-faith repossession without complying with the notice and hearing requirements is subject to civil liability, but not criminal liability.
- Assuming that there has been a waiver of notice and hearing, the reposessor may retake property wherever he/she finds it, within limits. The reposessor does have the right to go onto privately owned land to retake. For example, the reposessor may retake an automobile from a:
 - Driveway or furniture from an open porch. However, in no event is the reposessor authorized to enter any building, or an enclosure without permission (1159-1161 CCP and 418, 602, and 603 PC).
- As a rule, repossession is complete if the reposessor has already taken possession and the buyer has to pursue or chase after the reposessor in order to object or to complain. In order to have complete possession, the reposessor must exercise complete domain and control over the property.
 - Example: If the reposessor has already moved an automobile from a driveway and into the street, he has complete possession and a right to retain possession against the buyer's objections.
 - An officer may be called upon to exercise his/her good judgment as to whether the movement has been sufficient to give possession to the reposessor. If the movement was insufficient, the officer should advise the reposessor to seek a civil remedy.
- The reposessor is required to conduct himself/herself in a peaceful manner at all times. As with any other person, the reposessor cannot commit an assault or battery or cause a breach of the peace.

The Three Groups Which May Repossess Property:

- The first group is the seller and his full-time employees (7522 B&P). Part-time employees may not be used for repossession purposes. Members of this first group do not need a State license.
- The second group is the bank or finance company that has purchased the debt from the seller. If the buyer defaults on the payments, a full-time employee of the financing company may repossess the property. Members of this second group also do not need a State license.
- The third group includes private repossessors and are required to have a State license (7500 - 7583 B&P). This group is also required to have a license posted at the principal place of business (7532 B&P). Any person who violates these provisions guilty of a misdemeanor (7560 B&P).

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Notification:

The reposessor is required to immediately notify the local law enforcement agency by the most expeditious means available, i.e., fax or verbally, about the repossession. Their possessor must also notify the local law enforcement agency in writing within 24 hours of repossession.

Officer's Responsibilities and Duties:

The officer's responsibility at the scene of a repossession dispute is to keep the peace. This is strictly a civil matter and in no event are officers authorized to give legal advice. Officers will direct the parties to contact their respective attorneys for such advice.

At the scene of a repossession dispute, first, ascertain the identity of the reposessor. This person will usually have company identification, a private license, a copy of the contract, or a document describing the property to be repossessed.

Next, identify the other disputing party. If this person is the buyer, buyer's spouse, or third person in lawful possession, officers should inquire whether or not this person objects to repossession. If the person does object, then the reposessor cannot take the property.

Occasionally, if a crime is committed in an officer's presence during the dispute, he/she will have to take some positive action. The most common crimes arising from repossession disputes are assault, battery, disturbing the peace, and malicious mischief.

A reposessor will occasionally break a lock on a garage to retake property. In this event, officers should bear in mind the "intent" of the reposessor when deciding what crime may have occurred. For example, the intent to steal or commit some other felony is normally not present.

Buyers often want to report repossessed property as stolen. This frequently happens in the case of automobiles and motorcycles. For that reason, prior to initiating a stolen vehicle report, officers should inquire as to who had the title and whether or not the buyer is delinquent on any debt payments.

Officers should also check with S/O Records and Communications prior to taking a report on these cases to determine if in fact the vehicle was repossessed. If an officer may reasonably conclude that the property has been repossessed, the buyer should be referred to the titleholder.

In those instances where the reposessor has not gained possession, officers should then advise him/her to seek a civil remedy. The remedy consists of a "claim and delivery" action and the issuance by the court of a writ of possession (509-521 CCP). An officer of the court will serve such a writ. If officers are called to assist a court officer, they will simply stand by and give only such assistance as needed to prevent the commission of a crime.

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Landlord/Tenant Disputes:

In general, when a landlord and tenant enter into a contract, oral or written, it is one which gives the tenant temporary possession and use of the landlord's property for a specified amount of money for a specific period of time, and, in turn, the tenant agrees to return the property to the landlord at a future time. Generally, rents are paid in advance, and the landlord gives the tenant a receipt for the period covered.

If the tenant is contemplating moving, he/she usually gives the landlord advance notice of their intention based on the period in which the tenant pays rent. That is if the tenant pays by the day, week, or month, notice with this amount of "lead time" is given.

Law Violations:

The officer should try to avoid arrests and achieve a lasting solution to the dispute by explaining to the parties what conduct is not lawful and by suggesting alternative solutions that are lawful. Effective handling of landlord/tenant disputes often requires an understanding of applicable penal code provisions.

Unlawful Conduct by Landlord:

Tenant lock-out (418 PC): forcible entry and detainer law reads, "every person using or procuring, encouraging, or assisting another to use, any force or violence in entering upon or detaining any lands or other possessions of another, except in the manner allowed by law, is guilty of a misdemeanor."

Very often, when a tenant is behind in the rent, the landlord will jam or change the tenant's door lock in order to prevent the tenant's further use of the dwelling until the rent is paid. This lockout procedure is considered a "use of force," and it is, therefore, a misdemeanor prohibited by 418 PC.

Seizure of Tenant's Property:

It is not unusual for a landlord to seize a tenant's possessions in payment for past-due rent. The seizure of a tenant's property is a misdemeanor also prohibited by 418 PC.

Generally, a landlord may not take physical possession of the tenant's property unless the landlord first obtains a court order allowing him/her to do so (1861a CC).

A court order is needed even though by statute a landlord is given a lien against the tenant's property on the premises for the value of the unpaid rent, and also for the costs of enforcing the lien.

Furthermore, even with a court order, the lien may not be enforced against property necessary to the tenant's livelihood or any necessary household items (refer to 1861a CC for a complete breakdown).

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Removal of Doors and Windows:

If the landlord removes the doors and windows of the tenant's dwelling in an attempt to evict the tenant, or in any other way destroys the tenant's property, then the landlord may be guilty of 594 PC.

Even though the landlord may thereby be destroying his/her own property, the courts have held that, since a tenant has a property interest in the premises, any such acts of destruction by the landlord constitute malicious mischief against the tenant.

Trespass by Landlord:

A landlord will often enter the tenant's premises without permission from the tenant. If the entry is reasonable, for example, to repair a leaking water pipe, or to investigate smoke, it is not considered a trespass.

As of January 1, 2003, a landlord must now give the tenant reasonable notice in writing of the landlord's intent to enter. Entry must be during normal business hours unless the tenant otherwise consents. These written notice and business-hours-only requirements do not apply to cases of emergency, or when the tenant has abandoned or surrendered the premises.

Twenty-four hours notice is presumed reasonable absent evidence to the contrary. The written notice may be served in any of the following ways:

- Personal delivery to the tenant
- Left with someone of suitable age and discretion at the premises
- Left on, near, or under the usual entry door in a manner that a reasonable person would discover the notice
- Mailed to the tenant. A notice mailed at least six days before an intended entry is presumed reasonable notice absent evidence to the contrary.

In addition, if the tenant has consented by lease to his/her landlord's entry at will, then such entry is not a trespass. However, a landlord will often enter his/her tenant's premises without prior permission in order to harass the tenant or to "snoop around." This conduct is considered to be a trespass constituting a misdemeanor under 602.5 PC.

Even though the landlord may have proper legal grounds for evicting the tenant, it is unlawful for the landlord to use any of the methods discussed above in an attempt to force the tenant to vacate the premises. Rather, the landlord must bring a civil suit. The process to have a tenant legally evicted is called an "unlawful detainer" action.

Civil Laws in Landlord/Tenant Disputes:

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If officers have knowledge of the relevant civil law that may be involved in the typical landlord/tenant dispute, they may be better able to provide referral advice and suggest a permanent solution.

Example: If a landlord has locked the tenant out for non-payment of rent, officers could briefly explain to the landlord how he/she could legally evict the tenant. Simply telling the landlord that lockouts are unlawful might get the tenant back into the room or apartment again, but that will not resolve the landlord's problem.

Many times an officer will merely inform the parties that their dispute is a civil matter and leave. However, if the officer understands basic legal principles, the dispute can often be resolved by informing the parties of their legal rights and obligations. A permanent solution to the dispute will both eliminate recalls and the possibility of a subsequent dispute leading to violence.

Eviction:

The best legal way for a landlord to evict a tenant is by bringing an "unlawful detainer" action in court. There are several steps in this proceeding:

If the tenant has violated any of the conditions of the lease or rental agreement, e.g., failure to pay the rent when it comes due, keeping a pet when this act is specifically prohibited, etc., the landlord must give the tenant a three (3) day written notice to either correct the condition or move. This must be done prior to bringing any action in court to evict the tenant.

This means, for example, that if the tenant who is behind on the rent pays the total rent due within the three-day period, the landlord cannot have the tenant evicted. Three-day notice forms are available at any large stationery store. However, to be effective, such a form must be filled-out and served on the tenant in the legally correct manner.

In addition, a landlord has the right to terminate a month-to-month tenancy for almost any reason, even if the tenant has not violated any provisions of the signed rental agreement.

Effective January 1, 2003, until January 1, 2006, a landlord must provide a month-to-month periodic tenant with an additional 30 days notice to terminate the tenancy if the tenant has lived in the dwelling for one year or more. Thus, the notice requirement is now a total of 60 days, instead of 30 days.

To do this, the landlord must first serve the tenant with a written notice instructing the tenant to vacate within the 30 or 60 day time period appropriate to the given situation. The landlord must then bring an "unlawful detainer" action against the tenant.

There are certain situations where the 60-day notice is not required. First, it does not apply if the landlord enters into a fixed-term lease, such as a one-year lease agreement. Second, a 30-day notice is sufficient for tenants who have lived in the property for less

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than one year. Third, landlords selling their properties may give a 30-day notice if all of the following six conditions are met:

- The owner has entered into a contract to sell the dwelling or unit to a bona fide purchaser for value
- The buyer is a natural person(s)
- The buyer in good faith intends to live in the property for at least one year after termination of the tenancy
- The termination notice is given within 120 days of opening escrow
- The owner has established an escrow with a licensed escrow officer, or a licensed real estate broker; and
- The dwelling or unit is alienable separate from the title to any other dwelling unit.

This sequence of events and outlined procedures are the best legal way for a landlord to evict a tenant.

Landlord's Obligation:

Landlords have a general legal obligation to keep the premises they rent in a general fit condition for human occupancy and to repair all defects that make the premises uninhabitable. This means that the landlord must provide an apartment that has: A structure that is weatherproof, waterproof, and rodent-proof, a workable plumbing system, one working toilet, bathtub, and bathroom sink, one working kitchen sink, adequate heating, safe electrical wiring, and adequate garbage and trash storage and removal facilities.

The landlord cannot waive these requirements by placing a burden to repair these facilities on the tenant as part of the conditions of the lease.

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What the Tenant Can Do:

If the landlord fails to perform the responsibilities of keeping the dwelling in good repair, the tenant should inform the landlord of the problem in writing. If the landlord fails or refuses to correct the problem after being notified of the defect, the tenant has several alternatives.

If the defective condition is a violation of the housing code, the tenant should consider reporting the violation to the housing enforcement authorities. They will investigate the defect and compel the landlord to correct it. If the problem is one that is not handled by the housing enforcement authority, the tenant should consider calling the bureau of sanitation for help. If all else fails, the tenant should see an attorney.

Proper Handling of Landlord/Tenant Disputes:

An officer's objective, when confronted with a landlord and a tenant dispute, is not to make or encourage an arrest, but to try to achieve a lasting solution to the conflict by explaining to the parties what conduct is unlawful and by suggesting alternative solutions that are lawful. They should always follow the law.

If a tenant's complaint is that the landlord has locked him/her out, seized property, removed the doors or windows to the premises, interfered with the use of the tenant's utilities, or unreasonably trespassed on the premises, an officer can often successfully resolve the dispute by:

- Briefly explaining to the landlord that he/she has probably committed a misdemeanor violation by the landlord's acts or actions.
- If the tenant has a defective facility, the officer should advise him/her to explore the various legal alternatives open to the tenant.

Very often the landlord is unaware that his/her conduct is unlawful. In such a case, a simple explanation that the landlord's self-help measures are unlawful will often be enough to satisfy them. If, however, the landlord is headstrong and uncooperative, officers can explain to them that the tenant can initiate criminal proceedings. Generally, this tactic regenerates the landlord's attitude toward cooperation. This is the goal as a peace officer in the field.

While an arrest should not normally be encouraged, officers should ultimately take whatever police action is necessary under the circumstances.

NOTE: However, when a crime is found to have occurred, most offenses related to landlord and tenant disputes are misdemeanors. Consequently, officers may not arrest unless the offense occurred in his/her presence. Officers should advise the appropriate party of the private person's arrest requirements and procedures.

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Bomb Threats/Possible Explosive Devices

Reference: Penal Code Sections 148.1, 422, 422.6, 12301, 12303, 12303.1, 12303.2, 12303.3, and 12303.6

When officers are dispatched to the scene of a possible bomb threat or explosive device, certain safety precautions and procedures must be followed to facilitate a safe resolution and proper notification.

Response to the Scene:

The assigned officer will respond to the scene Code Two unless otherwise directed that an emergency response (Code Three) is necessary. The field supervisor will also be notified of the detail and may direct other patrol units to respond based on the nature of the threat, availability of other units, and the facility involved.

Radio Transmissions:

The assigned unit, and all other units in the area of a bomb threat will discontinue all radio transmissions and/or cellular telephone use, within one block of the scene. This will reduce the likelihood of electrical blasting cap detonation and/or the explosive device may be constructed to allow for detonation through the use of a remote radio signal. All communications at the scene of a bomb threat will be accomplished by regular telephone until a determination is made that radio and cellular transmissions will not activate the device.

Responsibility of Initially Assigned Units:

Officers assigned to respond to the scene of a bomb threat will not discuss the reason for their presence with employees or the public. Officers will discuss the bomb threat only with the person in charge of the facility, the reporting party, and the individual that received the threat unless it is necessary to contact other persons to obtain information related to the threat. The contacting of non-involved parties may lead to a panic situation, which must be avoided. The assigned officer will obtain all facts and information related to the threat as soon as possible. Necessary information includes, but is not limited to:

- Time of detonation, if stated
- Area where the alleged bomb was placed
- Motive or reason for placing the bomb
- Identification of the group or individual caller
- Description of the bomb and type of explosives used
- Prior history of bomb threats

In addition, the assigned officer will inform the owner/manager/person in-charge that they must make the decision as to the seriousness of the threat and what action is to be taken. However, officers may suggest the following alternatives:

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- Total evacuation and search of the premises
- Partial evacuation and search
- No evacuation, but conduct a search
- Disregard the threat

The assigned officer will emphasize that the evacuation and/or search is a management decision and should be based on available information. The owner/manager/person-in-charge will be advised that, if requested, officers will assist in conducting a search and will dispose of any explosive device found.

Evacuation:

When the owner/manager/person-in-charge decides to evacuate the involved facility, the officer in command of the scene will request that all personal property such as packages, briefcases, boxes, lunch pails, and other property be removed by each employee upon departure. In addition, a request will be made for employees to unplug or turn off all typewriters, copy machines, and electrical equipment prior to departure. Consideration should also be given to turning off lines that supply gas to the facility.

People leaving the facility will be instructed to evacuate a minimum distance of 300 feet but will be requested to remain at evacuation areas so that police personnel can summon them to identify unclaimed packages and suspicious objects as necessary. Once evacuation has begun, the officer in charge of the scene will ensure that the following tasks are performed:

- Assist in orderly evacuation
- Prevent unauthorized persons from entering the restricted area
- Protect the scene from damage by the public

When an evacuation is in progress, assigned officers should observe the area closely, looking for anyone exhibiting unusual interest in the proceedings. The perpetrator of a bomb hoax may derive intense satisfaction from the excitement at the scene, much in the same manner that an arsonist does at a fire. Officers should look for persons who insist on volunteering their aid or anyone who exhibits unusual knowledge of what is going on, or persons acting suspiciously.

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Search Procedures:

When a search is requested, and additional officers are required, the officer in charge of the scene will notify the patrol supervisor of the request, stating the number of additional officers that will be required and estimate the length of time the search will take.

In cases where civilian management does not have a search team to perform the search, officers will request to be accompanied by civilian employees who are familiar with the area to be searched. Janitors and supervisors are familiar with the building and can readily identify foreign objects or areas that have been disturbed. It is also extremely helpful to have a complete set of keys to all locks.

When a search is to be conducted, the searching officers should search the following areas in order:

- Outside the building, to include the roof
- Public access areas in the building
- Limited access areas in the building (individual rooms or offices)
- Utility areas
- Individual rooms inside the building

Searchers should pay particular attention to vulnerable target areas during the search. Such areas may include the following examples: flammable storage areas, boiler rooms, machinery rooms, power equipment areas, critical structure areas in the building, and communication centers.

Time Factor:

If a time of detonation has been given and during the course of the search nothing suspicious is discovered, a recommended standard procedure is to clear the target area of all searchers fifteen minutes prior to the time of detonation. The target should not be reentered for at least fifteen minutes after the stated detonation time. If a detonation time was not given, the search should continue until the supervising officer at the scene concludes that the search should be discontinued.

Action Upon Locating a Suspicious Object or Explosive:

If a suspicious object or the alleged bomb is found, do not touch or move it. The field supervisor should immediately be notified and request members of the bomb squad to be dispatched to the scene. If an explosive device or suspicious object is found, the search for more devices should continue, keeping in mind the time factor mentioned above.

Evacuation When Suspicious Object is Found:

A general evacuation of the entire facility may or may not be in order, depending on the size of the building and the size of the found object. The primary consideration will, of course, be the safety of the building occupants. (Terrorists will often detonate a small

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bomb, drawing emergency personnel and spectators into the area, and then a short time later a secondary device will be detonated.)

Removal of Suspicious Objects or Actual Devices:

Under normal circumstances, all improvised explosive devices, suspected bombs, suspicious objectives and recovered explosives will be removed and destroyed only by trained bomb disposal personnel. (While it might appear that some bombs are simple in design the explosives can be rigged to detonate if disturbed in any manner. It is always better to move people than to move a bomb.)

Statement and Cancellation of Evacuation/Search:

Due to civil liability, only the officer in charge of the scene should make statements regarding the incident. This should be done in front of other witnesses. No officer will sign any statements given to him or her by a representative of the property. When no explosive device(s) is found, the officer in charge of the scene may make a statement to that effect. However, no officer will state that the target facility is clear and safe to be reoccupied. The officer in charge will explain to the person in charge of the facility that the decision to reoccupy can only be made by him/her. The Morgan Hill Police Department will not be involved in the decision to reoccupy the facility because of liability issues.

Documenting the Incident:

An Incident Report will be written in all instances where there is a report of a bomb threat or an actual or simulated explosive type device is located. The Incident Report should include the following information:

- The exact words used by the caller
- Background noise
- Voice characteristics (sex, age, accent)
- Organization or group that caller claims to represent
- What actions were taken
- Possible suspects and reason (recently fired, contract dispute, etc.)
- If the call was received on taped line, obtain original and book into evidence
- Name and badge number of all personnel at the scene

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Hazardous Material Spills

References:

CVC Section 2454
North American Emergency Response Guidebook

Definition of Hazardous Material:

All substances that are dangerous by reason of their toxicity or potential for violent reaction (fire or explosion).

They include all of the following:

- Explosives
- Gases
- Flammable liquids
- Flammable solids
- Oxidizing substances
- Toxic Materials
- Radioactive materials
- Corrosive materials

Scene Management and Responsibility:

When the spill is on public property:

- Hazardous material spills and/or incidents will be under the control of the Morgan Hill Police Department when the occurrence is on a highway or roadway in the incorporated City of Morgan Hill(2454 VC).
- When the incident occurs on an unincorporated roadway or state highway, the California Highway Patrol (2454 VC) will have jurisdiction.
- The local fire department will be contacted for all incidents to provide hazardous materials team support.

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When the spill is on private property:

- Patrol personnel will respond and evaluate the scene.
- The fire department that has jurisdiction will be contacted for the appropriate response will become the on-scene commander.
- HAZMAT team response will be requested by the fire department.
- The property owner is responsible for the hazardous spill clean up and removal. When the property owner or his agent is not available, the City may clean up and bill the owner for the cost.

Reporting Procedures:

The officer assigned to the detail will complete an Incident Report on those incidents that are within the Morgan Hill Police Department jurisdiction. The field supervisor should also be notified as soon as practical in all such matters.

Point of Origin:

<u>Unincorporated Areas</u>		<u>City of Morgan Hill</u>	
On Roadway	Off Roadway	On Roadway	Off Roadway
C.H.P.	Fire Dep.	Morgan Hill Police Dept.	Fire Dept.

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Marijuana Law Violations – Detention and Arrest

References: Policy 450

Penal Code sections: 654, 853.6(i)(5) & (8)

Health & Safety Code section 11357(a)(1) & (2), 11357(b)(1) & (2), 11357(c), 11357(d), 11362.3(a), 11359(a), 11357(a) and 11360(a)

Grady v. Corbin U.S., 90 DAR 5852 (1990)

Illinois v. Vitale 447 U.S. 410 (1980)

Iannelli v. United States 420 U.S. 770 (1975)

Possession (28.5 grams or less, adult and juvenile suspects):

As required by law, officers issuing a citation to a subject for a marijuana law violation will utilize the criminal citation (adult) or the Juvenile Contact Report (JCR) citation (juveniles) and field release the violator whenever the following elements are satisfied:

- The amount of marijuana is 28.5 grams or less and/ or four grams of concentrated cannabis.
- The violator provides satisfactory evidence of identity.
- The violator gives his written promise to appear in court.
- The violator is not selling the marijuana or furnishing it to a juvenile.

Refusing to sign the citation or insufficient identification:

Whenever a refusal to sign a promise to appear or a lack of satisfactory identification occurs, the violator will be booked.

Possession (28.5 grams or more, juvenile suspects):

As required by law, officers issuing a citation to a juvenile for a marijuana law violation will utilize the Juvenile Contact Report (JCR) citation (juveniles) and field release the violator whenever the following elements are satisfied:

- The amount of marijuana possessed, transported, or given away is more than 28.5 grams.
- Whenever a sale or offer to sell any quantity of marijuana occurs.
- Whenever any adult furnishes or offers to furnish any amount or form of marijuana to a juvenile.
- Whenever the violator demands an immediate appearance before a magistrate.

When field releasing an adult arrestee for violation of 11357(b)(2) or 11357(c) and has satisfied the above elements, officers will not check the box on the citation section headed “Booking Required.”

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Concurrent on-view violations:

When an arrest is made, and less than 28.5 grams of marijuana is found on a suspect (example: DUI arrest and marijuana is found in the driver's pocket):

- Complete and document the crime/arrest
- Mention the marijuana in the report
- Book/cite for the original charge as well as the marijuana violation. The District Attorney's Office will review and decide whether or not to prosecute for the marijuana violation.

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Narcotics and Dangerous Drugs – General Information

Suggested Chemical Tests for Detection:

SUBSTANCE:

RECOMMENDED TEST:

ALCOHOL	BLOOD, BREATH
OPIATES (Heroin and Morphine)	BLOOD
AMPHETAMINES (Stimulants)	BLOOD
TRANQUILIZERS (Except Nprobromate)	BLOOD
NEPROBROMATE (Equanil, Miltown)	BLOOD
COCAINE	BLOOD
PCP	BLOOD

When the incident involves the use of a combination of controlled substances, or the officer is unable to determine the specific substance, a blood specimen may be obtained and submitted for analysis as evidence.

Taking of Specimen Against Suspect's Will:

According to case law, the drawing of blood is, in fact, a search and seizure. This can only be done under the normal circumstances of:

- Warrant
- Consent
- Exigent Circumstances

If the blood draw goes directly to the elements of the crime (11550 H&S or 23152 CVC, for example), it is legal and falls under exigent circumstances.

11550 H&S:

When a suspect is arrested for 11550 H&S, a blood specimen will be obtained. The District Attorney's Office may not charge 11550 H&S unless a specimen is obtained.

23152 CVC (DUI - alcohol only):

The suspect is not, by law, allowed to refuse a chemical test.

23152 CVC (DUI – drugs or combination of alcohol and drugs):

If the DUI involves drugs or a combination of alcohol and drugs, a blood specimen shall be obtained. Blood or breath are the only tests offered to DUI suspects per the Vehicle Code.

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Felony Cases:

Case law also allows for a blood draw if there is some relevance to the court proceeding. So, if an officer determines that the blood has some relevance to the crime, draw it. It should be well documented in the report why the officer conducted the search and seizure. There is no set procedure for drawing blood in felony cases.

Method:

When administering such a test, officers will remain aware that the courts will examine the method used to obtain the specimen and decide if such method “shocks the conscience” of the Court. The following elements should be examined:

- Physical injury: When the method used produces an injury that requires medical treatment, the courts are likely to view such a method as unwarranted.
- Nature of resistance: When the nature of the suspect’s resistance is verbal, accompanied by a lack of physical cooperation short of combative, and the officer administering the test merely positions the person’s body or limbs so as to administer the test, such conduct by an officer will likely be viewed as warranted.
- Reasonableness: The courts will assess the circumstances of the incident as compared to the method used to administer the test.

The officer initiating the test does not need to indicate the circumstances and facts which indicate the reasonableness of the method used to administer the test in the report. However, the officer may have to justify his/her actions during court testimony.

Specific Chemical Test Procedures:

Officers will adhere to the following additional procedures when intending to obtain any of the following biological specimens for a chemical test:

- Blood Test: Officers intending to subject a suspect to a blood test will make a reasonable effort to determine if the suspect is a hemophiliac or using anticoagulants under the direction of a physician. When it is determined that a suspect is a hemophiliac or using anticoagulants, such a suspect is exempt from the blood test. A blood test may be administered when the person is unconscious or in a condition rendering such person incapable of refusing to submit. It is not necessary to obtain the permission of relatives or any other person.
- Urine Test: Is not used for DUI or alcohol-related incidents. A urine sample is acceptable if a blood sample is unobtainable in cases involving a controlled substance.

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- Breath Tests: Intoxilyzer certified officer must operate the breath analysis machine, or a qualified laboratory technician must be called to administer the test, (most laboratory technicians are not qualified).

METHODS OF INGESTION:

ONSET

SMOKING	3-5 Seconds
INJECTION (I.V.)	5-10 Seconds
INHALING	5-15 Seconds
INSUFFLATION (Snorting)	2-3 Minutes
APPLIED	2-3 Minutes
ORAL	20-30 Minutes

COCAINE/METHAMPHETAMINE (CNS STIMULANTS):

Representatives:

Methamphetamine (Desoxyn), Amphetamine (Dexedrine and Benzedrine), Methylphenidate (Ritalin).

These drugs are central nervous system stimulants (CNS) which speed up breathing and heart rate, and also raise blood pressure. CNS stimulants can cause a number of health problems within an individual. Impaired judgment, insomnia, and transient psychotic episodes are a common symptom of this drug. Paranoia can also be present with large dosages and/or prolonged use of the drug.

Cocaine has been used as a local anesthetic by ear, nose, and throat specialists, but is being replaced by other drugs. Ritalin is prescribed to individuals with Attention Deficit Disorder (A.D.D.) to improve the individual's concentration.

Cocaine, Methamphetamine and other CNS stimulants are found in a number of forms, i.e., pills, powder, rock, and liquid (speedball - mixture of cocaine and heroin).

When Cocaine/Methamphetamine or other CNS stimulants are introduced into the body by mouth, nose (snorting), injection, or smoking, the individual may exhibit one or more of the following symptoms. These symptoms are variables and do not exist in every person. Objective/Subjective symptoms and their onset are strongly based on a person's tolerance, amount ingested, and the quality of the substance.

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Objective Symptoms:

- Dilated pupils
 - 6.0 mm or above
 - Maybe below 6.0, but should be fixed with a minimal response (.5mm) under controlled conditions.
 - Addicts or chronic users may show a non-reactive pupil response (3.0 mm) due to a damaged optic nerve, which controls dilation and constriction of the pupil.
 - Pupils dilate within 5 to 15 minutes after substance is introduced into the body and will usually last between three to six hours, but can be longer.
- Vigorous behavior (rapid and excited speech/moves fast)
- Nervousness
- Irritability
- Rapid pulse rate (110+ beats per minute)
- Rapid respiration (approximately 25 breaths per minute)

Subjective Symptoms:

- Rush
- Alertness
- Energetic (senses energy)

PHENCYCLIDINE (PCP):

PCP is also known as Angel Dust, Dust, KJ, and a dozen other pseudonyms and is sold as pills, powder, and liquid. It is sprinkled on marijuana cigarettes (Sherms, Super Kools) or parsley (Lenos).

PCP is a deliriant with effects resembling stimulants, depressants, anesthetics, and hallucinogens, depending on dosage. The drug primarily affects the brain and the central nervous system.

PCP is normally found in cigarettes (hand-rolled joints) and commonly smoked as joints in the Bay Area. A cigarette normally contains approximately 1/10th of a gram. When PCP is introduced into the body by mouth, injection, or smoking, the individual may exhibit one or more of the following:

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Objective Symptoms:

Normally occurs approximately 10-15 minutes after introduction into the body.

- Horizontal (normally less than 20 degrees) and vertical; gaze nystagmus.
- Strabismus (nonconvergence)
- Blank stare
- Droopy eyelids (sleepy look or hooded)
- Muscular rigidity (wide rigid gait/robotic)
- Bizarre behavior
- Sweating (increased body heat)
- Poor coordination
- Non-responsive
- High pulse rate (normally above 120 beats per minute)

SUBJECTIVE SYMPTOMS:

- Rush
- Numb feelings
- Warm/flush
- Hallucinate/delusions

All of the above Objective/Subjective symptoms and their onset are strongly based on a person's tolerance, amount ingested, and the quality of the substance.

HEROIN (OPIATE):

- Representative: Opium and opiates derivatives are heroin, codeine, and morphine.
- Synthetic: Methadone, meperidine (Demerol), hydromorphone (Dilaudid), Oxycodone (Percodan), pentazocine (Talwin), and propoxyphene (Darvon).

Heroin is a narcotic and acts on the central parasympathetic nervous system to slow down the body systems, reduce sensitivity to pain, and to induce sleep. Heroin has no medical use in the United States, but other opium derivatives or a synthetic substitute are prescribed to relieve pain, coughing, diarrhea, and as a pre-anesthetic medication.

Heroin comes in the form of powder or as a substance that resembles tar. "Tar Heroin" is commonly used in the Bay Area while "China White" is more prominent on the East Coast. When heroin is introduced into the body by injection (most common method), mouth, nose (snorting), or smoking, the individual may exhibit one or more of the following:

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Objective Symptoms:

- Constricted pupils 3.0 mm or below
- Maybe above 3.0, but should be fixed with minimal response (.5 mm) under controlled conditions. Pupil constriction will normally occur in approximately 15 minutes with 4 mg to 6mg of heroin and last four to six hours.
- Puncture wounds (injection sites)
- Droopy eyelids (hooded)
- Sedation
- Slow, shallow breathing
- Slow reflexes
- Slurred speech
- Thirst due to dryness in the mouth (heroin commonly dehydrates the body)

Subjective Symptoms:

- Euphoria
- Relaxed
- Nausea
- Upset stomach (may result in vomiting)

All of the subjective symptoms are variables and do not exist in every person. Objective/subjective symptoms and their onset are strongly based on their tolerance, amount ingested, and the quality of the substance.

CANNABINOIDS (MARIJUANA):

- Representatives: Trade/Street names include Marinol, Dranabinol, THC, pot, grass, joint, reefer, Ganja Acapulco Gold, Sinsamilla, Thai Sticks, Hash, and Hash Oil.

Marijuana is one of the most misunderstood and underestimated drugs of abuse. People use marijuana for the mildly tranquilizing mood and perception-altering effects it produces. The active chemical in Marijuana is Delta-9-Tetrahydracannabinol (THC).

Marijuana has 70% more cancer-causing agents than cigarettes. Four marijuana cigarettes are equivalent to one pack of cigarettes. When Marijuana is smoked, it is irritating to the lungs. Chronic smoking causes emphysema-like conditions.

The active chemical, THC, is stored in body fat and is slowly released over time. Marijuana smoking has long-term effects on performance. Combining alcohol, or other depressant drugs, and marijuana can produce a multiplier effect, increasing the impairment effect of both the depressant and marijuana.

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Objective Symptoms:

- Reddened eyes (possible hooded eyelids)
- Slowed speech
- Elevated pulse rate
- Non-convergence (strabismus)
- Eyes near normal or slightly dilated
- Distinctive odor on clothing
- Divided attention impairment
- Body tremors
- Disoriented
- Eyelid tremors possible
- Relaxed attitude

Signs and Symptoms/Regular Use of Marijuana:

- Delayed decision making
- Diminished concentration
- Impaired short-term memory loss, interfering with learning
- Impaired signal detection, (ability to detect a brief flash of light) a risk for users who are operating machinery.
- Impaired tracking and visual distance measurements

All the subjective symptoms are variables and do not exist in every person. Objective/Subjective symptoms and their onset are strongly based on their tolerance, amount ingested, and the quality of the substance.

ALCOHOL:

- Representatives: Beer, wine, and hard liquor

The chronic consumption of alcoholic beverages over time may result in the following hazards: Fatal liver disease, kidney disease, ulcers, pancreatitis, and cancer of the mouth, tongue, pharynx, esophagus, rectum, breasts, and malignant melanoma. There can also be a decreased sexual functioning.

Up to 54% of all birth defects are alcohol-related due to spontaneous abortion and mortality. Up to 10% of people who drink alcoholic beverages become physically and/or mentally dependent on this substance and can be termed “alcoholic.”

The human body metabolizes alcohol at the rate of .02 BAC per hour, which is the equivalent of one drink an hour (one-12 oz. glass of beer, or one-6 oz. glass of wine, or one-1 oz. glass of hard liquor).

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Objective Symptoms:

- Odor of alcoholic beverage
 - Beer
 - Wine
 - Hard liquor
- Horizontal gaze nystagmus
- Vertical gaze nystagmus when the blood alcohol level is .20 or above.
- Thick and slurred speech
- Impaired coordination
- Flushed face
- Slow reflexes
- Drowsiness
- Non-convergence (Strabismus)
- Possible elevated pulse rate

ROHYPNOL (“date rape” drug):

- Representatives: Street Names: Roofies, ropies, circles, R-2, roaches
- Method of Use: Oral. Usually with alcohol or other drugs
- Duration of Effect: When taken orally effects begin within 30 minutes and peak within 2 hours.
- Possible Effects: Decreased blood pressure, memory impairment, drowsiness, and confusion. Physiological effects similar to Valium, although 10 times more potent.
- Facts: Produced and sold legally in Latin America and Europe. In countries where the drug is legal, it is used as a short-term treatment for insomnia and pre-anesthetic medication. This drug is smuggled into the United States and is being increasingly found in California, Texas, and Florida. These small white pills are sold for as little as \$1.50 each. The word “ROCHE” and the number “1” or “2” is etched into one side of the pill.

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NARCOTICS AND DANGEROUS DRUG LAWS:

- Seconal, Nembutal, Tuinal, and Amytal (11377 H&S)
- Amphetamines (11377 H&S)
- LSD (11377 H&S)
- Cultivation of marijuana (11358 H &S)
- Peyote (11350 H&S)
- Heroin (11350 H&S)
- Cocaine (11350 H&S)
- Paraphernalia Possession, of an opium pipe or device, instrument used for unlawful injecting or smoking instrument or controlled substance (11364 H&S)
- Being present in a place where controlled substances are used (11365 H&S)
- Inhalation of toluene (381 PC)
- Under the influence of certain drugs (11550 H&S)

Morgan Hill Police Department
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News Media Relations

Officers will occasionally come in contact with representatives from the various news media. These persons should be treated in a professional manner with no favoritism shown toward a particular media person. They are not allowed to interfere with the performance of an officer's job, they are subject to all laws, and cannot enter crime scenes or cross police lines until they are allowed access by an officer in charge of the scene.

Officers must realize that representatives from the news media have the right to report or photograph anything they observe at the scene as long as they are here legally. 409.5 PC deals with unauthorized entry into disaster areas, etc., but specifically allows authorized members of the media into these areas (409.5(d) PC). The media assumes the risk and thus prevents civil liability on the part of the Morgan Hill Police Department.

The Court of Appeals made it clear that safety cannot be the basis for excluding access: "Safety is not a reason to exclude press members from a disaster site, because the statute 409.5(d), provides a specific exception for members of the media, in situations already determined to be unsafe. This means that members of the press must be accommodated with whatever limited access to the site may be afforded without interference."

Regarding media access at crime scenes, the Court of Appeal commented: "The legislative goal is to provide the maximum possible press access. Authorized news media are allowed to photograph or report from within police lines at an accommodating distance from the immediate crime scene area. Media members do not have access rights to any immediate criminal investigation, or police SWAT team locations, when public safety officers or investigators, believe a crime has been committed."

The opinion of the State Attorney General is: "Officers shall, if circumstances permit, warn reporters and/or press photographers of any dangers, but the presence of danger should not prohibit the reporter and/or photographer from entering a particular area, and they shall be responsible for their own safety in all cases including major fires, disasters or other catastrophic events. Media representatives should not be denied access to dangerous areas solely because of the possibility of their injury or death. For example, if a building collapsed because of structural failure and is closed to the public because it is inherently unsafe and may collapse further, media can enter the building at their own risk."

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The State Attorney General also made the following recommendations for allowing or denying access to imminently dangerous areas:

- Media personnel can be prohibited from entering potentially hazardous areas (e.g., getting close to a burning fuel tank that may explode), but enforcement agencies must allow them (media) to enter dangerous areas (e.g., scenes of riots, earthquakes, or hurricanes) at their own risk.
- Media representatives should be advised of the danger and be allowed to decide whether to enter. Officers are not responsible or liable for media personnel who enter dangerous areas.
- Law enforcement personnel have no authority to invite media personnel to enter such areas.
- Law enforcement agencies are not required to provide escorts, bulletproof vests, helmets, gas masks, or other safety equipment.
- If, under unusual conditions, a team negotiating hostage releases invites media representatives, some protection may be needed.
- While that concern for safety is understandable, media personnel have long chosen to accept physical danger as part of their role in covering important stories, whether it be war, civil unrest, terrorist actions, natural disasters, or crisis situations involving law enforcement agencies.

As a general rule, the media should be referred to the Morgan Hill Police Department Public Information Officer for a press release. Officers should refrain from providing statements to them unless approval is received from a commanding officer or the Public Information Officer.

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Animals – Vicious, Sick, Injured or Dead

An officer is often directed to handle a report of vicious, sick, injured or dead animals. During normal business hours, these types of calls should be directed to Animal Control or other appropriate agency that is responsible for handling such calls. Due to budget restraints, Animal Control may ask that an officer respond and advise if they are needed.

Vicious Animals:

Officers will be dispatched on reports of vicious animals that are roaming an area that may endanger the public. An officer that locates such an animal should use extreme caution and attempt to confine the animal for pickup by animal control or other appropriate agency.

Sick or Injured Animals:

Animal Control or other appropriate agencies will respond to pick up sick or injured stray animals that are confined and not wandering in an area. An officer that locates such an animal should use CAUTION and avoid handling the animal. Animal Control will respond to some injured wild animal calls. For other injured wild animals, officers should attempt (through Communications) to contact a wildlife rescue service.

Dead Animals:

Dead animals should be removed to an area that will prevent the carcass from becoming a traffic hazard. Animal Control or another appropriate agency should be notified to respond to the location for picking up the carcass. Generally, these pickups will occur during normal business hours and are not considered a priority detail.

Dispatching of Violent, Sick or Injured Animal:

- Firearm: An animal may be dispatched if it falls under the criteria set forth in the Policy Manual for the Use of Firearms policy. Refer to the following two pages of drawings for recommended Point of Entry and Point of Exit for the dispatching of various types of animals using a firearm.

Officers should also ensure that there is no likelihood of a bullet ricocheting and causing injury to others during the process of dispatching an animal. It is recommended that all citizens be removed from the immediate area prior to the dispatching of the animal.

If time allows the officer should notify Communications and the field supervisor prior to dispatching the animal. After dispatching the animal, the officer will notify the field supervisor, complete a Firearms Use Report and an Employee's Reports.

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- Other means: It is not required that an officer use his/her firearm to dispatch an animal. Officers may want to consider other alternatives when making the decision to dispatch an animal. There may be times when other means are more practical (small animal in a residential area, near a freeway, under a house).

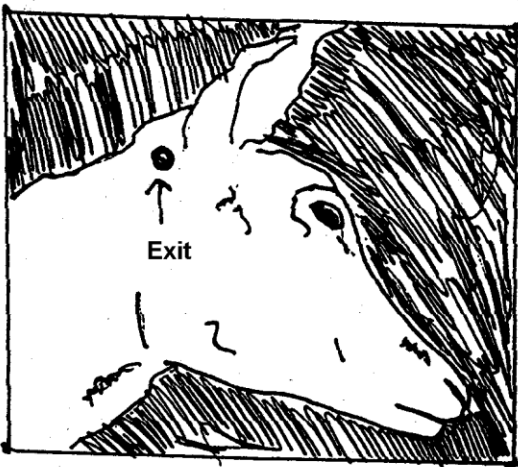
Note: Officers are not required to dispatch animals. The surrounding circumstances, availability of Animal Control, the area and the nearby (viewing) public need to be taken into consideration.

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Horse



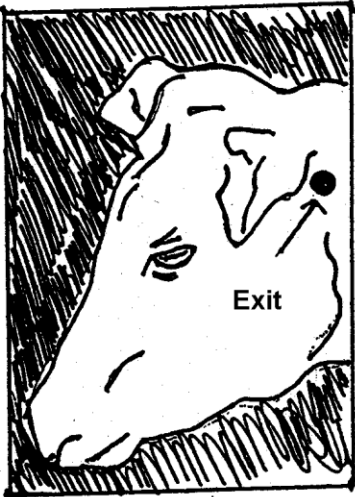
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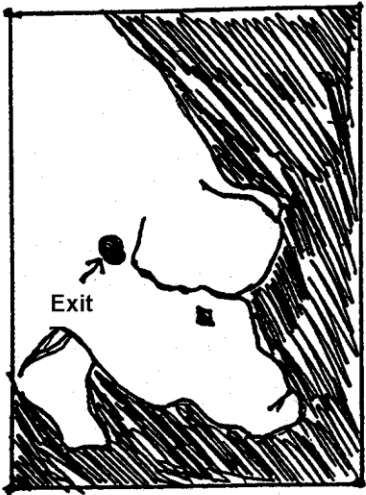
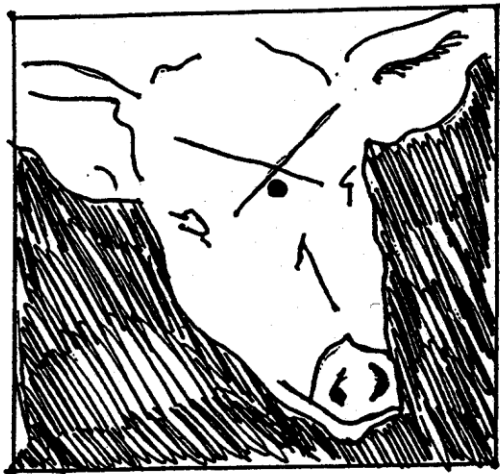
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**Cow or
Canine**



Swine



Morgan Hill Police Department
Field Training Manual
Dispersal of Party Disturbances

Initial Steps:

- One of the most important initial steps to cover is to contact the Reporting Party (R/P) if one is available.
- Determine if R/P's peace is disturbed and/or nature of the complaint.
- Does R/P desire prosecution?
- Advise R/P of his responsibilities for seeking prosecution.
- Advise R/P of the intended action at this point.

Contact the person giving the party or person in charge. Preferably this should be an adult as this is the most crucial part of successfully quieting or dispersing a large party disturbance. Advise this person of the following:

- Tell person of the complaint and any violations noted.
- Ask for his/her cooperation in quelling the disturbance without further police intervention.
- Explain that further police actions will be necessary if there is a return call on the disturbance.
- Provide the responsible person with a "Party Card" and explain that a second call of a similar nature could result in a charge being levied against him/her for the time that the officers are at the scene. This is in addition to any criminal charges that may be filed in this matter. Record who was talked to in case a second call is received, or prosecution is needed.

A party beyond the control of the responsible is considered an emergency situation, i.e., persons damaging the residence or numerous criminal violations are occurring. The following should be noted:

- Assess the situation and estimate the number of persons attending the party.
- Determine the number of officers needed and whether the blocking of streets in the area is necessary to avoid further pedestrian and vehicular traffic from entering the area. Remember: Allow an exit route for the pedestrians and vehicular traffic. Do not start dispersing them without a route for them to exit.

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Useful Codes for Handling Party Disturbances:

Penal Code:

415(2)	Loud and Unreasonable Noise.
415(3)	Offensive language in a public place likely to provoke an immediate violent reaction.
602.5	Unauthorized entry into property
602 (m)	Trespass with a vehicle
374.4	Littering
594	Vandalism
404	This includes the use of force or violence or any threat to use such force or violence, if accomplished by the immediate power of execution, by two or more persons acting together.

Alcohol Violations:

25662 BP	Minor drinking or in possession of alcohol in a public place or a place open to the public.
25658 BP	Any person who sells, furnishes or gives or causes to be sold, furnished, or given away any alcoholic beverages to any person under 21 years of age.
25608 BP	Every person who possesses, consumes, sells, gives or delivers to any person any alcoholic beverage in or on any schoolhouse or any grounds thereof.
647(f) PC	Under influence in a public place to the extent that person is unable to care for their own safety, the safety of others, or danger to themselves.

Vehicle Code Violations:

22502(a)	Parked more than 18" from right-hand curb
22514	Parked within 15 feet of a fire hydrant
22500	Parking in / on the intersection, crosswalk, sidewalk, illegally parked with no evidence of registration; etc.
23109	Speed contest, racing
23152	DUI - public property or private property
23136(a)	Minor driving with BAC of .01-.04 (see DUI investigation)
23140(a)	Minor with BAC of .05-.07 (see DUI investigation)

Morgan Hill Police Department
Field Training Manual
Death Cases – Notifications and Definitions

Reference:

Government Code Section 27491, 27491.3
Policy Manual 360

A peace officer cannot search a dead person (27491.3 Government Code). This is the Coroner's responsibility. The following are the types of death cases that the Morgan Hill Police Department will normally be dispatched on to handle:

Attended Death:

An apparent natural mortality in which a physician has attended to the deceased in the 20 days preceding death and the physician can be contacted and will agree to sign a death certificate with the Coroner's approval (Government Code 27491). An Incident Report is required with the Coroner's Case number.

Unattended Death:

An apparent natural mortality in which there is no attending physician or when an attending physician refuses to sign a death certificate. Deaths of a suspicious nature will be treated as an unattended death unless the circumstances dictate something different. An Incident Report is necessary.

Suicide:

A death in which the mortality is apparently self-inflicted. An Incident Report is necessary.

Homicide:

Any mortality caused by a person or persons. An Incident Report is necessary.

The officer at the scene of a death case will assume command, pending arrival of a supervisor, and will be responsible for the following:

- Preservation of the Scene:
 - Exclude everyone from the area.
 - Protect the scene from self and fellow officers.
- Separate Witnesses and Obtain Names, Addresses, and Phone Numbers:
 - List names, addresses and phone numbers of all persons who have entered the scene, both present and absent.
 - Paramedics, fire department personnel, relatives, and others.
 - Obtain recent medical or psychological history.
 - Obtain physician's name, address, and phone number.

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- Advise the Patrol Supervisor of the Following:
 - Type of death and circumstances.
 - Photos are required for all but attended deaths. Depending on the type of death case, the photos may be taken by the officer, patrol supervisor, or the evidence technicians.
 - The Patrol supervisor will determine whether this is a case that will require notification of the homicide investigators and/or when to notify coroner for removal of the deceased. Officers are not to notify the homicide investigators or coroner without first obtaining the field supervisors approval.

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Demonstration/Civil Disturbances

It is not the intention or desire of the Morgan Hill Police Department to suppress or restrain lawful activity. The Morgan Hill Police Department will extend whatever resources are necessary to protect the rights of any person or group to conduct a peaceful and lawful demonstration within the jurisdiction of the Morgan Hill Police Department. However, unlawful activity will not be condoned and will be promptly handled by the Morgan Hill Police Department. The Morgan Hill Police Department will take appropriate legal steps to discourage unlawful conduct whenever it occurs.

Morgan Hill Police Department Response to Demonstrations:

Demonstrations are often highly emotional incidents. Officers will strive to remain objective in order to maintain effectiveness.

Equality of Treatment:

Officers will treat demonstrators, onlookers, or counter demonstrators with equal treatment.

Response to Violent Conduct:

Where a demonstrator uses physical violence upon another person or property, officers should promptly make an arrest unless the supervising officer at the scene concludes that making the arrest would divert limited manpower or be unnecessarily risky in reducing the ability of members to perform their duties most effectively.

Response to Other Illegal Conduct:

Arrests will occasionally have to be made because of a demonstrator's nonviolent but nevertheless illegal conduct: for example, illegal obstruction of the streets or of a building entrance. In such situations, the on-scene supervisor will decide if such arrests are to be made.

News Media Relations at These Scenes:

Section 409.5 of the Penal Code authorizes officers to close disaster scenes such as earthquakes or fires to the public. Subsection (d), however, allows duly authorized representatives of any new service, newspaper, or radio or television station or network to enter closed areas.

Onlookers at the Scene of a Demonstration, Civil Disturbance or Other Incident:

Onlookers may remain in the vicinity as long as the presence of these persons does not interfere with the officers' duties or create a safety concern for the officer, person detained or onlooker. They must, however, maintain a reasonable distance when monitoring police activities depending on the circumstances.

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Onlookers have the right to record the incident, and the recording device (camera, video camera, tape recorder, and any film or tape from a recording device) cannot be seized by an officer at the scene except under the authority of a search warrant. If the immediate circumstances lead the officer to believe that the recording contains crucial evidence, the officer may ask the citizen to surrender the recording material voluntarily.

First Officer at Scene:

The first officer at the scene of a disturbance should observe the situation from a distance and evaluate it before taking action. If the situation demands, the officer will notify the field supervisor.

Order to Disperse:

A dispersal order must be given before a person can be guilty of remaining at a place of a riot, rout, or unlawful assembly.

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Response to Labor Disputes

Officers responding to labor disputes should keep in mind that strikes and picketing are not violations of the law. It is the illegal acts that sometimes arise from such activities that concern the Morgan Hill Police Department. The effectiveness of the Morgan Hill Police Department in labor disputes is maintained by remaining impartial regarding the parties and issues involved and by taking appropriate action whenever criminal violations are observed and reported.

Officers will not normally be deployed to strike scenes. However, when deployment becomes necessary the field supervisor or a patrol administrator will also respond and take charge of the situation.

Officers will need to be familiar with the following Penal Code sections:

- 552 Peace officer, use of road
- 552.1 Exceptions, union activities
- 553 Definitions
- 554 Posting of certain property against trespassing or loitering.
- 555.1 Tearing down, deface or destroy any posted signs

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Aircraft Crashes – Duties and Responsibilities

The handling of an aircraft crash is a rare occasion for a beat officer. The Federal Aviation Administration (FAA) and the National Transportation Safety Board (NTSB) have the responsibility of investigating these types of incidents. However, officers must be ever alert for their own safety and for the safety of others when dispatched to such an incident. Officers should treat these types of incidents in the same manner as they would treat any other major incident that could have potentially dangerous hazardous material spills, explosions, or fires.

Initial Arrival at Scene:

The first officer to arrive at the scene must immediately assess the situation for the following:

- Exact location of the accident
- Best route for other emergency personnel to access the area
- The number and types of additional emergency personnel that may be needed to treat the injured put out any fires, contain hazardous waste spills, or crowd and traffic control matters.
- Exact number of injured persons and the extent of their injuries
- Try to account for all occupants of the aircraft (at scene, hospital, etc.)
- Try to determine whether the aircraft is carrying any hazardous material that may prove hazardous to rescuers or others in the area.
- Other structures that may need to be checked for possible victims (aircraft into residence, shopping center, school, etc.).

Notification:

Once the situation has stabilized officers must notify the field supervisor and apprise him/her of the situation. The field supervisor will make the determination as to when to notify the FAA and the NTSB, who have jurisdiction in all plane crashes. Once notified, these agencies will dispatch specialized investigators to the scene to conduct the investigation. It may take an extended time period for these investigators to arrive, so preservation of the crash site, which can be quite large, must be done as soon as possible to avoid contamination from bystanders, other emergency personnel, the news media, etc.

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Secondary Responsibilities:

Officers should do the following after the situation has stabilized and proper notification has been made:

- Try to obtain positive identification from each occupant of the aircraft.
- Note any signs of impairment that were observed from the pilot (drugs, alcohol, etc.). This may prove beneficial later to the FAA and NTSB investigators.
- Any contraband that is observed within the aircraft or in possession of the occupants (narcotics, endangered animals, etc.).
- The year, make, model and aircraft identification number (usually on the tail or fuselage) should be recorded. This number should be checked through the FAA for any current wants prior to the arrival of FAA or NTSB.
- The pilot's logbook should be located and held until turned over to the FAA and NTSB investigators.

Investigation:

Inquiry into the cause of the accident is the responsibility of the FAA and the NTSB. It is not the officer's responsibility to conduct an investigation, but often times there will be a large amount of information directed to that officer from others at the scene prior to the arrival of these investigators. Also, it may be daylight when the investigating officer arrives at the scene, which may enable them to see evidence or other items much better than the investigators, who may not arrive until darkness.

These investigators will handle the notification of the coroner's investigator for the removal of any dead bodies.

Documentation:

The investigating officer will be required to complete an Incident Report on the aircraft crash. This report should include the necessary identifiers from the pilot, passengers, and witnesses, as well as any statements that these persons provided to officers about the circumstances of the accident. The report should also document any investigation or observations that officers made while at the scene.

The investigating officer will provide the FAA and NTSB investigators with any known information once they arrive on the scene. The Morgan Hill Police Department is available to assist the investigators with any needed manpower, etc., should they request such aid. However, the field supervisor will be notified for approval of any such aid request before committing any of the Department's resources to them.

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News Media Relations:

It is not uncommon for the media to respond to the scene of an aircraft crash. Representatives of the news media should be treated with respect, but will not be allowed to enter the crash scene area until the FAA or NTSB investigators approves of such action. There are no restrictions on the media in photographing any portion of the crime scene, so long as they are not in the crime scene or interfering with the investigation. Officers should avoid making any comments regarding these incidents to the news media unless a commanding officer approves it. The media should be referred to the Public Information Officer.

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Fugitive from Justice (1551.1 PC)

Along with local warrants, officers will occasionally encounter subjects that have out-of-state warrants. The out-of-state warrant is bookable but not as a warrant. It is an on-view crime in California to have an out-of-state warrant with charges that have a punishment of death or imprisonment of more than one year. Follow these steps when dealing with this type of warrant:

1. Through Communications, confirm the warrant with the originating agency and make sure that agency will extradite the subject.
2. Confirm that the original charges have a punishment of death or imprisonment exceeding one year (this can be done when confirming the warrant).
3. Book the subject for an on-view charge of 1551.1 PC and complete a Probable Cause Affidavit.
4. Complete an Incident Report outlining the details of the event (reason for contact, statements from the subject, etc.).